



**2009 PENNSYLVANIA STATEWIDE
HIGH SCHOOL MOCK TRIAL
COMPETITION**

Robin and Sandra Hansbra

v.

Plane's Park & Polish, LLC

**SPONSORED BY THE YOUNG LAWYERS DIVISION
OF THE PENNSYLVANIA BAR ASSOCIATION**

***Written by:
Jon Grode***

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Problem Questions & Contact Information

Questions concerning these case materials should be sent to David Keller Trevaskis at the Pennsylvania Bar Association (PBA). Case material questions will be answered in cooperation with the Statewide Mock Trial Executive Committee. Questions regarding mock trial procedure, including any questions involving the Rules of Competition or Rules of Evidence (Pennsylvania Mock Trial Version), should be directed to your District or Regional Mock Trial Coordinators.

Answers to legitimate and non-repetitive questions will be posted periodically in a supplemental memo on the mock trial website (www.pabar.org) under the Young Lawyer's Division (YLD) link (direct access at <http://www.pabar.org/public/yld/meetings/yldstatewidemock.asp>). You may submit questions at anytime.

The deadline for submitting questions is 12:00 noon on January 20, 2009. The final update to the supplemental memo will be posted no later than **January 23, 2009**. The final memo will become the official supplemental memo to be used in the competition. Please consult Rule of Competition 3.3 concerning the evidentiary value teams are to give the final official supplemental memo.

Questions must be sent in writing by one of the methods listed below. Please be sure to include return contact information in the event we need to reach you to clarify a question.

Submit all questions to:

E-mail: david.trevaskis@pabar.org

Fax: 717.238.7182

No questions will be considered unless submitted under this procedure.

If you have any questions or concerns, please contact Maria Engles at the PBA (maria.engles@pabar.org; 800.932.0311 ext. 2223).

Introduction and Acknowledgments

Welcome to the 2009 Pennsylvania Statewide High School Mock Trial Competition! This year we celebrate 25 years of sponsoring one of the top academic competitions for high school students in the Commonwealth! The competition, sponsored by the Young Lawyers Division of the Pennsylvania Bar Association (PBA YLD), bestows upon high school students firsthand experience with the American judicial system.

The Mock Trial Competition is but one of several popular law-related and civic education programs spearheaded by the PBA to demystify the law and legal system for Pennsylvanians; some others include Freedom's Answer, I Signed the Constitution, Project PEACE, Law Day and Stepping Out for Seniors. Susan Etter, the PBA's Law-Related Education Coordinator, organizes these programs. Educators and attorneys are encouraged to contact her to learn more about these and other PBA programs. All PBA programs help support the civics education outreach of Pennsylvania First Lady and Third Circuit Court of Appeals Judge Marjorie Rendell. Judge Rendell is heading the Honorary Advisory Committee for the National High School Mock Trial Competition which will be held in Pennsylvania May 5-9, 2010.

This year's case, *Hansbra v. Plane's Park & Polish, LLC*, involves an employer's potential liability for the negligent actions of an employee depending upon whether the employee's actions occurred within the scope of her/his employment. The case was written by Jonathan A. Grode, (Temple University Beasley School of Law - May 2008), who also co-wrote the 2007 and 2008 mock trial problems with Jane E. Meyer, Esq. Ms. Meyer, who is a prior Mock Trial Committee Chairperson and current member of the National High School Mock Trial Championship Board of Directors, edited the final version of the problem in collaboration with Mr. Grode. Our sincerest thanks go out to Mr. Grode and Ms. Meyer for their tireless and enthusiastic creation and editing of this year's case.

Mr. Grode thanks Yuah Jessica Choi, Esq. (Goldblum & Hess) and Christopher P. Munden, for reviewing various drafts of the problem, Roberta West (LEAP Program Advisor Temple University Beasley School of Law) for her relentless support; Michael O. Krause for his assistance in drafting the pleadings; his wife, Caroline Munden, for her love, care and consideration; and the entire PBA YLD for their valued assistance, suggestions and guidance.

Thanks also go to Jennifer J. Walsh of Lackawanna County, Co-Chair of the Mock Trial Committee and a former Chair of the PBA YLD, for her continued efforts with the competition and for her participation in drafting some of the materials. The Mock Trial Committee would also like to express its appreciation to Competition Co-Chair Ryan Blazure, Esq, current Chair of the PBA YLD, for his continued support of and valued input into the competition.

The PBA YLD also extends thanks to attorney volunteers Donna Adelsberger and Anne Panfil for their review of early versions of the case materials and, as usual, we thank David Trevaskis, PBA Pro-Bono Coordinator, for his continued involvement and experienced guidance in implementing the 2009 Mock Trial Competition.

Finally, we thank the hundreds of volunteers who annually contribute their time and energy to the overall organization and running of the program. Last, but certainly not least, we thank the PBA staff, lead by Executive Director Barry Simpson and Deputy Executive Director Fran O'Rourke, and the many PBA staff members, too numerous to mention, who provide valuable time and talent throughout the mock trial season each year. Without their assistance, this competition would not be the tremendous success that it is each year. Special thanks to Maria Engles, the YLD Coordinator at the PBA, who serves as the main point of contact for the entire program, beginning to end. We hope you find these materials interesting, and wish you all the best of luck!

Statement of Facts

On April 18, 2008, Jaya (pronounced jay-ya) Hansbra, a seventeen-year-old high school student, was killed in Harrisburg when struck by a vehicle driven by Reilly Blaker, then employed as a valet attendant at Plane's Park & Polish (PP&P). Jaya's parents have filed a wrongful death claim against PP&P, seeking to hold it liable for Jaya's death. They assert that its employee, Reilly Blaker, was responsible for Jaya's death while working for PP&P. PP&P denies liability, arguing that Blaker was not acting within the scope of her/his employment at the time of the accident.

PP&P is an airport valet service operating at Harrisburg International Airport, run by former attorney Parker Plane, who prides her/himself on covering all contingencies. The business was initially successful, but a downturn in the economy cut into profit margins. Parker was forced to cut staff, and personally assumed many of the operations' day-to-day responsibilities.

Reilly Blaker had been employed by Plane for six months when the accident occurred. Blaker had once been a highly paid marketing director for a large pharmaceutical company, but lost her/his job after a conviction for driving under the influence. Blaker was unable to find a job until Parker Plane took a chance on her/him. Blaker quickly made her/himself valuable to the company, including offering Plane new marketing ideas to increase PP&P's sales. Plane and Blaker became somewhat close and frequently took business lunches together.

In February 2008, Blaker attended a family reunion in Ohio. Rather than admit to being a lowly valet, Blaker told her/his family that s/he owned PP&P. This piqued the interest of Brody Crisdale, Blaker's sister/brother-in-law, who owned a chain of lube shops in Ohio. Crisdale hoped to expand into Pennsylvania and thought a partnership could be forged with PP&P.

In the following month, Blaker, continuing with her/his ruse as PP&P's owner, gave Crisdale a tour of the Harrisburg facility without the prior approval of Parker. After the visit, Blaker took a customer's late model car, also without authority, claiming it was her/his own, and drove to Crisdale's hotel. Blaker's fellow employee, Dylan Sabien, observed what happened and approached Plane about this breach of company rules. Sabien, who was jealous of Blaker's increasing importance with Plane, tried to tell Plane about the violation, but Plane dismissed the accusation.

Reilly Blaker and Parker Plane later had lunch together, where Blaker finally told Plane about Brody Crisdale's interest in a potential partnership. Plane was excited about the prospect and Blaker came away believing s/he should directly pursue the deal. Plane disputes the extent of the authority s/he granted Blaker, claiming that s/he would pursue it instead of Blaker.

Unbeknownst to Plane, Blaker met with Brody Crisdale on April 18, 2008 to discuss the possible partnership. Still pretending to be PP&P's owner, Blaker took the keys to a company car and drove Crisdale to a lunch meeting where they negotiated over two bottles of wine. During the drive back to the hotel, Blaker failed to notice that a traffic light had changed from yellow to red and blindly made a right hand turn, striking Jaya Hansbra and killing her instantly. Blaker later pled guilty to homicide by vehicle while driving under influence, and is currently in prison.

At trial, Reilly Blaker and Dylan Sabien will testify for the plaintiffs. Parker Plane and Brody Crisdale will testify for the defense.

ROBIN HANSBRA and SANDRA
HANSBRA, Individually in their Own
Right,

Plaintiffs

v.

PLANE'S PARK & POLISH, LLC,
Defendant

IN THE COURT OF COMMON PLEAS
DAUPHIN COUNTY, PENNSYLVANIA

NO. 2009 CV 1769 CV

CIVIL ACTION – LAW

COMPLAINT

1. Plaintiffs, adult individuals Robin Hansbra and Sandra Hansbra, husband and wife, file this action in their individual capacities as the parents of Jaya Hansbra, Decedent, against Defendant, Plane's Park & Polish, LLC. ("PP&P"), seeking to recover damages pursuant to Pennsylvania's Wrongful Death Act, 42 Pa.C.S.A. § 8301.
2. Jaya Hansbra, the Decedent and a minor, formerly resided at 1297 N. 15th Street, Harrisburg, Pennsylvania. Plaintiffs Robin and Sandra Hansbra formerly resided with Decedent, and continue to reside at 1297 N. 15th Street, Harrisburg, Pennsylvania.
3. Defendant PP&P is a Pennsylvania limited liability corporation with its principle place of business at 325 Chestnut Street, Philadelphia, Pennsylvania.
4. At all times relevant hereto, Defendant PP&P conducted business at the Harrisburg International Airport (HIA), located at 1 Terminal Drive, Middletown, Pennsylvania.
5. At all times relevant hereto, Defendant Parker Plane was President of PP&P.
6. At all times relevant hereto, Reilly Blaker was acting as an agent of Defendant PP&P.
7. On April 18, 2008, Reilly Blaker attended a business lunch meeting in New Cumberland, Pennsylvania, regarding a potential partnership between Maintain Oil Change, an Ohio Corporation, and PP&P, and during that meeting consumed alcohol in excess of the legal limit.
8. At or around 3:30 p.m. on April 18, 2008, the Decedent was walking across the intersection of Front and Market Streets in Harrisburg, Pennsylvania.
9. Upon lawfully entering the intersection, the decedent was struck and immediately killed by an automobile driven by Defendant's agent Reilly Blaker, while s/he was returning from the lunch meeting.
10. At the time of the incident, Reilly Blaker was acting within the scope of her/his employment with PP&P.

COUNT I - WRONGFUL DEATH

11. The allegations of paragraphs 1-10 above are incorporated herein as though fully set forth at length.
12. Reilly Blaker, as an agent of PP&P and while acting within the scope of her/his employment, caused the death of Jaya Hansbra due to unlawful negligence and outrageous conduct when s/he struck decedent with an automobile while driving under the influence of alcohol thereby causing Jaya Hansbra to suffer injuries that resulted in her death.
13. Defendant is liable for the damages suffered by the plaintiffs for Wrongful Death by virtue of *respondeat superior*.

Scope of employment

14. Although Blaker was initially hired as a valet, Defendant knowingly expanded Blaker's scope of employment to include acts outside those of the valet position description, including but not limited to conducting marketing activities on behalf of PP&P.
15. Specifically, the Defendant directed Reilly Blaker to negotiate with vendors and procure new business on behalf of PP&P, inuring to the benefit of PP&P.
16. Reilly Blaker was performing an authorized act when s/he entertained Brody Crisdale, owner of Maintain Oil Change, an Ohio Company, for lunch, including but not limited to transporting Brody Crisdale to and from said lunch in a vehicle registered to PP&P.
17. Defendant provided emoluments outside hourly pay to Reilly Blaker for those actions taken on behalf of PP&P that are not included in the job description of valet.
18. Such emoluments were commensurate with the performance based salaries of employees performing executive tasks in the fields of marketing, administration and business in general.

Time and Place

19. Defendant's agent was acting within her/his scope of employment and at an appropriate time and place when s/he struck and killed decedent.
20. At the time of the incident, Reilly Blaker was returning from a midday meeting that occurred within the time Reilly Blaker was scheduled to work on April 18, 2008.
21. The incident occurred within fifteen (15) miles of PP&P's HIA location in Middletown PA, which is a reasonable distance from the airport site and a location commensurate with negotiating a business partnership.

Motivation of Agent

- 22. At all times relevant hereto, Reilly Blaker's acts were executed specifically for the benefit of PP&P.
- 23. Reilly Blaker's chief purpose in attending the lunch meeting was to procure a partnership agreement between PP&P and Maintain Oil Change that would result in added revenue for PP&P.

WHEREFORE, Plaintiffs Robin and Sandra Hansbra, pray for an award of compensatory, actual and punitive damages against defendant Plane's Park and Polish, to be determined by a jury. *

September 15, 2008
Date

/s/
Attorney for Plaintiffs

* Editorial Note: If the facts of this case happened in real life, the Plaintiffs would also have a negligence based cause of action called a "survival action" (42 Pa.C.S.A. sect. 8302), which is almost always filed as an additional claim in a complaint containing a wrongful death claim. A survival action belongs to the decedent's estate, and permits the estate to recover for monies a decedent would be entitled to had s/he lived, such as medical bills, conscious pain and suffering and probable lifetime earnings discounted for probable lifetime maintenance. Also, punitive damages are available in a survival action if the conduct that caused the decedent's death was outrageous and extreme. The damages would go to the estate to be divided in accordance therewith. Because of the limited time mock trial teams have to put on their cases, the Mock Trial Executive Committee chose to omit the survival claim and focus on the vicarious liability of the employer rather than on the conduct of the employee.

ROBIN HANSBRA and SANDRA
HANSBRA, Individually in their Own
Right,

Plaintiffs

v.

PLANE'S PARK & POLISH, LLC,
Defendant

IN THE COURT OF COMMON PLEAS
DAUPHIN COUNTY, PENNSYLVANIA

NO. 2009 CV 1769 CV

CIVIL ACTION – LAW

DEFENDANT'S ANSWER TO PLAINTIFFS' COMPLAINT

1. Admitted in part and denied in part. It is admitted that Plaintiffs filed the instant action. The remaining averments of this paragraph constitute conclusions of law to which no response is required. Those averments are therefore deemed denied.
2. Denied. The Defendant is without sufficient information to form a belief as to the truth of the allegations in paragraph 2 of Plaintiffs' Complaint. As such, those allegations are denied.
3. Admitted.
4. Admitted.
5. Admitted.
6. Denied as stated. Defendant admits only that, during all times relevant to the instant Complaint, Reilly Blaker was employed by PP&P as a valet. The remaining allegations in paragraph 6 of Plaintiffs' Complaint are specifically denied, and strict proof thereof is demanded at trial.
7. Admitted. By way of further answer, Defendant asserts that said meeting occurred without the prior knowledge or permission of PP&P.
8. Admitted.
9. Admitted in part and denied in part. Defendant admits that Reilly Blaker attended a lunch meeting, and that Blaker's vehicle struck and killed Decedent. Defendant specifically denies the characterization of Blaker as Defendant's agent, demanding strict proof thereof at trial.
10. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. To the extent that a response is required, Defendant specifically denies that Blaker was acting within the scope of her/his employment, and strict proof thereof is demanded at trial.

COUNT I
WRONGFUL DEATH

11. Defendant hereby incorporates the responses to the allegations in paragraphs 1-10 as though the same were fully set forth at length.
12. Admitted in part and denied in part. Defendant admits only that Blaker's vehicle struck and killed Decedent on April 18, 2008. The remainder of the averments in this paragraph constitute conclusions of law to which no response is required. To the extent that any response is necessary, Defendant specifically denies that Blaker was an agent of PP&P at the time of the accident, and further denies that Blaker was acting within the scope of her/his employment at that time. Strict proof thereof is demanded at trial.
13. Denied. The averments in paragraph 13 of the Complaint constitute conclusions of law to which no response is required. Said allegations are therefore deemed denied.

Scope of Employment

14. Denied. It is specifically denied that Defendant directed Blaker to perform any duties outside of those set forth in Blaker's job description as a valet. Strict proof thereof is demanded at trial.
15. Denied. Defendant specifically denies the allegations in paragraph 15 of Plaintiffs' Complaint, demanding strict proof thereof at trial.
16. Admitted in part and denied in part. Defendant admits only that Blaker transported Crisdale in a vehicle registered to PP&P. Defendant specifically denies the remaining averments in paragraph 16 of Plaintiffs' Complaint, demanding strict proof thereof at trial.
17. Denied. Defendant specifically denies that it provided "emoluments" to Blaker for the performance of specific tasks that fell outside his job description as a valet. Strict proof is thereof demanded at trial.
18. Denied. Defendant specifically denies that it provided "emoluments" to Blaker for the performance of specific tasks that fell outside his job description as a valet. Strict proof is thereof demanded at trial.

Time and Place

19. Denied. The averments of this paragraph constitute conclusions of law to which no response is required. Said allegations are therefore deemed denied. To the extent that any response is required, Defendant specifically denies that Blaker was acting on behalf of PP&P at the time of the accident. Strict proof thereof is demanded at trial.
20. Admitted in part and denied in part. Defendant admits only that the accident occurred during midday, that Blaker had been attending a meeting, and that Blaker was scheduled to work at PP&P at that time. Defendant specifically denies the remainder of the allegations in paragraph 20 of Plaintiffs' Complaint, demanding strict proof thereof at trial.
21. Denied. The allegations in paragraph 21 constitute conclusions of law to which no response is required. Said allegations are therefore deemed denied. By way of further answer,

Defendant specifically denies that the accident occurred a “reasonable distance” from the Defendant’s Harrisburg business to in any way be considered a part of Defendant’s normal course of business. Strict proof thereof is demanded at trial.

Motivation of Agent

- 22. Denied. Defendant specifically denies that, at all relevant times, Blaker was acting specifically for the benefit of PP&P. Strict proof thereof is demanded at trial. By way of further answer, Defendant asserts that Blaker was acting only with her/his own individual interest in mind at the time of the incident, and acted without the prior knowledge or permission of PP&P.
- 23. Denied. Defendant specifically denies that, at all relevant times, Blaker was acting specifically for the benefit of PP&P. Strict proof thereof is demanded at trial. By way of further answer, Defendant asserts that Blaker was acting only with her/his own individual interest in mind at the time of the incident, and acted without the prior knowledge or permission of PP&P.

WHEREFORE, Defendant, Plane’s Park & Polish, respectfully requests this Honorable Court to enter an order in favor of Defendant and against Plaintiffs on all counts in Plaintiffs’ Complaint.

NEW MATTER

- 24. Plaintiffs’ Complaint fails to state a claim upon which relief can be granted.
- 25. PP&P is not liable for the death of Jaya Hansbra because Reilly Blaker was not acting in a manner in which s/he was employed to perform, the incident occurred outside the time and space of Reilly Blaker’s employment and it occurred as a result of actions taken solely for Reilly Blaker’s own benefit. Therefore, Blaker was not acting in the scope of her/his employment at the time of the accident.
- 26. The actions of Reilly Blaker on April 18, 2008 were unforeseeable and, consequently, could not have fallen within the scope of her/his employment.
- 27. Specifically, it was unforeseeable that Reilly Blaker would use the company vehicle to conduct unilateral negotiations with a potential business partner. Additionally, it was unforeseeable that Reilly Blaker would consume alcohol during the unapproved secret meeting prior to operating a vehicle under the influence of alcohol in violation of the Pennsylvania Vehicle Code, thereby committing a crime, and ultimately taking the life of Jaya Hansbra.

Wherefore, Defendant demands judgment in her/his favor against Plaintiffs.

October 14, 2008
Date

/s/
Attorney for Defendant

ROBIN HANSBRA and SANDRA
HANSBRA, Individually in their Own
Right,
Plaintiffs

v.

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Defendant

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DAUPHIN COUNTY, PENNSYLVANIA

NO. 2009 CV 1769 CV

CIVIL ACTION – LAW

PLAINTIFFS' REPLY TO NEW MATTER

24. Denied. The allegation in paragraph 24 of Defendant's New Matter constitutes a conclusion of law to which no response is required. That allegation is therefore deemed denied.
25. Denied. The allegation in paragraph 25 of Defendant's New Matter constitutes a conclusion of law to which no response is required. That allegation is therefore deemed denied.
26. Denied. Plaintiffs specifically deny the allegation in paragraph 26 of Defendant's New Matter, demanding strict proof thereof at trial. By way of further answer, the actions of Blaker were completely foreseeable and specifically encouraged by Defendant.
27. Denied. Plaintiffs specifically deny the allegation in paragraph 27 of Defendant's New Matter, demanding strict proof thereof at trial. By way of further answer, the actions of Blaker were completely foreseeable by Defendant.

WHEREFORE, Plaintiffs demands judgment in Plaintiffs' favor and against Defendant.

November 3, 2008
Date

/s/
Attorney for Plaintiffs

ROBIN HANSBRA and SANDRA
HANSBRA, Individually in their Own
Right,

Plaintiffs

v.

PLANE'S PARK & POLISH, LLC,
Defendant

: IN THE COURT OF COMMON PLEAS
: DAUPHIN COUNTY, PENNSYLVANIA
:

: NO. 2009 CV 1769 CV
:

: CIVIL ACTION – LAW
:

OPINION

Currently, before the court is a Summary Judgment Motion filed by the Defendant, Plane's Park & Polish, LLC, seeking judgment as a matter of law in this wrongful death action. For the reasons set forth below, Defendant's motion is denied in part and granted in part.

Background

Plaintiffs, Robin and Sandra Hansbra, as the parents of Jaya Hansbra, filed this action under the Wrongful Death Act, 42 Pa.C.S.A. §8301, against Park's Plane & Polish, LLC ("PP&P"). Plaintiffs allege that Reilly Blaker, an employee of PP&P, negligently struck and killed Plaintiffs' seventeen-year-old daughter Jaya Hansbra while driving a vehicle during the course and scope of Blaker's employment. According to Plaintiffs' Complaint, PP&P is liable to them under the common law doctrine of *respondeat superior*¹ and, consequently, Plaintiffs seek the award of compensatory, actual and punitive damages against PP&P.

Plaintiffs' Complaint alleges that Reilly Blaker conducted a business meeting on behalf of PP&P with Brody Crisdale in the hopes of forging a business partnership with Crisdale's company, Maintain Oil Change. According to the Complaint, the two consumed alcohol at that meeting and later, while driving under the influence, Blaker struck and killed Jaya Hansbra, a pedestrian lawfully crossing an intersection in Harrisburg.

Regarding the liability of PP&P, Plaintiffs contend that Blaker was acting within the course and scope of employment at the time of the accident, thereby imputing liability to the employer. More specifically, Plaintiffs aver that the accident occurred substantially within the time and space authorized by PP&P, and that Blaker was acting for the benefit of PP&P, when Blaker, driving a vehicle registered to PP&P, struck Jaya Hansbra who was walking across a downtown street, causing Jaya's death.

Defendant's Answer and New Matter denies the allegations in Plaintiffs' Complaint regarding Blaker's actions as occurring within the course and scope of employment. Rather, according to PP&P, Blaker was on a personal mission of which Parker Plane, the President of PP&P, had no knowledge and did not authorize.

¹ *Respondeat superior* (pronounced 'ree-SPOND-ee-at') is a doctrine holding an employer or principal liable for the employee's or agent's wrongful acts committed within the scope of the employment or agency. It is a Latin term meaning "let the superior make answer."

In Defendant's Summary Judgment Motion, PP&P seeks judgment as a matter of law on the issue of *respondeat superior* and, alternatively, seeks to dismiss Plaintiffs' claim for punitive damages as legally insufficient.

For the following reasons, Defendant's Motion for Summary Judgment on the issue of *respondeat superior* will be denied. However, the Court will grant that portion of Defendant's motion that seeks dismissal of Plaintiff's claim for punitive damages as a matter of law. The case will therefore proceed to trial on the merits.

Legal Discussion

Rule 1035 of the Pennsylvania Rules of Civil Procedure governs motions for summary judgment. According to that rule, after "the pleadings in a case are closed, but within such time as not to unreasonably delay trial, any party may move for summary judgment in whole or in part as a matter of law whenever there are no genuine issues of material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report" Pa. R. Civ. P. 1035.2. In short, summary judgment is a means available to litigants for the prompt and expeditious disposition of a controversy without a trial, but only when there are no facts in dispute regarding the elements of the claims. Since discovery has been conducted in this matter, and both parties have fully briefed the issues, Defendant's summary judgment motion is ripe for disposition.

Defendant raises two distinct issues in its summary judgment motion: (1) that Blaker's actions were not committed within the course and scope of employment and, even if they were, those actions were totally unforeseeable such that *respondeat superior* liability cannot lie; and (2) punitive damages are not available in an action for Wrongful Death under Pennsylvania law. Each issue will be addressed *seriatim*.

Pennsylvania has adopted the Restatement (Third) of Agency § 2.04 as it relates to *respondeat superior* liability.² Section 2.04 provides that "[a]n employer is subject to liability for torts committed by employees while acting within the scope of their employment." The question before the Court is whether, under the facts of this case as developed through discovery, Blaker was, in fact, acting within the scope of employment with PP&P at the time of the accident.

Section 228(1) of the Restatement (Second) of Agency instructs that an employee's acts fall within the scope of employment "if, but only if (a) it is of the kind s/he is employed to perform; (b) it occurs substantially within the authorized time and space limits; and (c) it is actuated, at least in part, by a purpose to serve the employer." Conversely, the actions of an employee will fall outside the scope of employment "if it is different in kind from that authorized, far beyond the authorized time or space limits, or too little actuated by a purpose to serve the master." *Id.* at § 228(2).

Moreover, Section 230 of the Restatement provides that "[a]n act, although forbidden, or done in a forbidden manner, may be within the scope of employment." A review of the comment following this section of the Restatement suggests that some acts, if they fall in a certain class of acts associated with other authorized employment tasks, may be within the scope of employment although not specifically approved as such by the employer. Restatement (Second) of Agency §230 cmt.

² For purposes of this Mock Trial Competition.

Under Pennsylvania law, when facing a claim for *respondeat superior* liability, an employer may assert the affirmative defense that, notwithstanding the fact that the employee may have been acting within the scope of employment, he/she nonetheless acted in such an unforeseeable manner that the employer cannot be held liable for those tortious acts. See Restatement (Second of Agency) §228(3). This affirmative defense is generally reserved for the jury because it requires a factual determination regarding the tortfeasor's subjective state of mind as well as the terms of employment. However, in certain limited circumstances, summary judgment may be appropriate if the acts of the employee are so egregious that no reasonable person could find that the tort was foreseeable.

The Restatement (Second) of Agency §231, Criminal and Tortious Acts, states that an "act may be within the scope of employment although consciously criminal or tortious."³ Therefore, some tortious acts, even though criminal in nature, may still be committed within the course and scope of employment, depending on the degree of egregiousness of the tort itself.

A review of the evidence of record before the Court, which includes Witness Statements and other associated exhibits, reveals genuine issues of disputed facts, precluding the award of summary judgment to Defendant on the issue of *respondeat superior* liability. In support of its position, Defendant asserts that Blaker was hired for a specific position at PP&P as a valet, and was not hired as a marketing executive with authority to negotiate business partnerships. Further, Defendant posits that, even if Blaker were acting within the course of his employment, Blaker was egregiously violating the law by driving a vehicle while under the influence of alcohol, which was completely unforeseeable by PP&P. The culmination of these facts, according to Defendant, vitiates *respondeat superior* liability, entitling it to summary judgment.

Plaintiffs counter that there exists persuasive evidence in the record that Parker Plane, President of PP&P, routinely involved Blaker in marketing efforts, whether by brainstorming marketing ideas or by permitting Blaker to conduct negotiations with local vendors. Further, Plaintiffs claim that Blaker was specifically encouraged by Plane to "roll with it" and "do whatever it takes" to close the deal with Maintain Oil Change, clearly indicating that a "wine and dine" approach, which Plaintiffs argue is customary in the industry, brings Blaker's actions squarely within the required parameters warranting the imposition of *respondeat superior* liability upon PP&P.

At the very first stage of the scope of employment inquiry, *i.e.*, whether Blaker was performing the type of work for which s/he was hired, it is clear that there exists conflicting evidence in the record such that the Court need not proceed to analyze the second and third elements. Therefore, the material issues of fact in dispute preclude the Court from ruling in

³ The comment to Restatement (Second) of Agency illustrates the following example:

A chauffeur, driving on an errand for his master, who knowingly drives on the left-hand side of the street or exceeds the speed limit, is still acting within the scope of employment. Likewise, a gardener using a small stick in an assault upon a trespassing child to exclude him from the premises may be found to be acting within the scope of the employment; if, however, the gardener were to shoot the child for the same purpose, it would be difficult to find the act within the scope of employment. So, if a servant is directed to use any lawful means to overcome competition, the bribery of employees of the competitor, or the circulation of malicious stories, might be found to be within the scope of employment, while the murder of the competitor, although actuated solely by zeal for the master, would not be.

Restatement (Second of Agency) §228(3) cmt.

PP&P's favor on the specific argument that Blaker's actions fell outside the course and scope of her/his employment with PP&P.

Assuming *arguendo* that Blaker was acting within the course and scope of her/his employment with PP&P at the time of the accident, Defendant argues that Blaker's driving while under the influence constituted an egregious criminal act that was completely unforeseeable by PP&P. Consequently, under Pennsylvania law, PP&P maintains that it should escape *respondeat superior* liability. However, because there is evidence in the record that Parker Plane had knowledge of Blaker's past DUI indiscretion, and reasonable minds could differ as to whether it was foreseeable that he would do so again in the context of negotiating with potential vendors and business partners, the Court will not usurp the role of the jury in determining whether PP&P can prove its affirmative defense. In short, there exist genuine issues of material fact in dispute at this juncture, and as such, Defendant's motion for summary judgment on the issue of *respondeat superior* liability is denied.

As for Plaintiffs' demand for punitive damages, PP&P correctly asserts that such damages are not available in a Wrongful Death action under Pennsylvania law. Although punitive damages may be recoverable in a survival action, the instant case is one for wrongful death only and, as such, Plaintiffs' demand for punitive damages will be stricken from the Complaint. Harvey v. Hassinger, 461 A.2d 814, 816 (Pa. Super. 1983); Walsh v. Strenz, 63 F.Supp.2d 548, 556 (M.D. Pa.1999). Moreover, given the nature of the allegations in the Complaint and in an effort to streamline the trial of this case, the Court is hereby bifurcating the trial such that the jury will first hear evidence on the issue of liability only and, in the event the jury finds PP&P liable to Plaintiffs, it will then hear evidence on the issue of damages.

In sum, Defendant's motion for summary judgment will be denied in part and granted in part. PP&P's Summary Judgment Motion on the issue of *respondeat superior* liability is denied, and the Wrongful Death claim will be tried on the merits before a jury. Plaintiffs' demand for punitive damages, however, will be stricken from the Complaint since such damages are not available under Pennsylvania law governing wrongful death actions. Further, this trial is hereby bifurcated, and the jury will determine the issue of liability prior to taking any evidence relating to damages. Accordingly, this court enters the following:

ORDER

AND NOW, this 9th day of January, 2009, it is hereby ORDERED that Defendant's summary judgment motion is **DENIED** as to the Wrongful Death claim asserting a lack of *respondeat superior* liability. This claim will proceed to trial during the February/March 2009 Civil Trial Term. Defendant's motion with regard to Plaintiffs' demand for punitive damages is **GRANTED**. Plaintiffs' demand for punitive damages is hereby STRICKEN from the Complaint.

BY THE COURT:

J.J. Walsh
Jennifer J. Walsh, J.

Distribution:
Plaintiffs' Counsel
Defendant's Counsel

ROBIN HANSBRA and SANDRA
HANSBRA, Individually in their Own
Right,

Plaintiffs

v.

PLANE'S PARK & POLISH, LLC,
Defendant

IN THE COURT OF COMMON PLEAS
DAUPHIN COUNTY, PENNSYLVANIA

NO. 2009 CV 1769 CV

CIVIL ACTION – LAW

STIPULATIONS

The parties have stipulated to the following:

1. This case will be bifurcated. Only the issue of whether the Defendant is liable for causing Plaintiffs' harm is before the jury. The issue of damages is not before the jury.
2. 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 or exhibits will be entertained. The parties reserve the right to dispute any legal or factual conclusions based on these items and to make any and all objections to the documents and exhibits other than authenticity. Different fonts used for witness signatures and other examples of witness writing in the materials and exhibits are intended to be consistent across witnesses; any inconsistencies are unintentional.
3. Jurisdiction, venue and chain of custody of the evidence are proper.
4. All statements made by witnesses and all physical evidence and exhibits were Constitutionally obtained.
5. Reilly Blaker negligently drove the motor vehicle that struck Jaya Hansbra on April 18, 2008. Jaya Hansbra died as a direct result of this accident.
6. The driving distance between HIA and downtown Harrisburg (one-way) is approximately ten (10) miles. The linear distance between HIA and downtown Harrisburg (one-way) is approximately eight (8) miles.
7. The driving distance between HIA and D'Luchiano's (one-way) is approximately thirteen (13) miles. The linear distance between HIA and D'Luchiano's (one-way) is approximately six (6) miles.

/s/
Plaintiffs' Attorney

/s/
Defendant's Attorney

APPLICABLE LAW

42 Pa.C.S.A. § 8301 - Death action

(a) **General rule.**--An action may be brought, under procedures prescribed by general rules, to recover damages for the death of an individual caused by the wrongful act or neglect or unlawful violence or negligence of another if no recovery for the same damages claimed in the wrongful death action was obtained by the injured individual during his lifetime and any prior actions for the same injuries are consolidated with the wrongful death claim so as to avoid a duplicate recovery.

(b) **Beneficiaries.**--Except as provided in subsection (d), the right of action created by this section shall exist only for the benefit of the spouse, children or parents of the deceased, whether or not citizens or residents of this Commonwealth or elsewhere. The damages recovered shall be distributed to the beneficiaries in the proportion they would take the personal estate of the decedent in the case of intestacy and without liability to creditors of the deceased person under the statutes of this Commonwealth.

FOR THE PURPOSES OF THE MOCK TRIAL COMPETITION, PENNSYLVANIA HAS ADOPTED THE FOLLOWING SECTIONS OF THE RESTATEMENT (SECOND) (THIRD) OF AGENCY, MODIFIED AS FOLLOWS:

Restatement (Third) of Agency § 2.04 *Respondeat Superior*

An employer is subject to liability for torts committed by employees while acting within the scope of their employment.

Restatement (Second) of Agency § 228 *General Statement*

- (1) Conduct of an employee is within the scope of employment if, but only if:
 - (a) it is of the kind s/he is employed to perform;
 - (b) it occurs substantially within the authorized time and space limits; and
 - (c) it is actuated, at least in part, by a purpose to serve the employer,
- (2) Conduct of an employee is not within the scope of employment if it is different in kind from that authorized, far beyond the authorized time or space limits, or too little actuated by a purpose to serve the employer.
- (3) Conduct of an employee is not within the scope of employment, if, but only if: the actions taken or force used by the employee against another is unforeseeable by the employer.

NOTE: An affirmative defense lies with the employer, if the employer can prove that the actions taken or force used by the employee was unforeseeable under a preponderance of evidence standard.

Restatement (Second) of Agency § 231 *Criminal Or Tortious Acts*

An act may be within the scope of employment although consciously criminal or tortious.

Restatement (Second) of Agency § 233 Time of Service

Conduct of an employee is within the scope of employment only during a period which has a reasonable connection with the authorized period.

Restatement (Second) of Agency § 234 Area of Service

Conduct is within the scope of employment only in the authorized area or in a locality not unreasonably distant from it.

Restatement (Second) of Agency § 235 Conduct Not for Purpose of Serving Employer

An act of an employee is not within the scope of employment if it is done with no intention to perform it as a part of or incident to a service on account of which s/he is employed.

JURY INSTRUCTIONS

Prior to the commencement of the trial, and also after the conclusion the 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: A copy of these instructions may not be used as an exhibit during the mock trial competition; however students may use these concepts in fashioning their case and making arguments to the jury.)

PRELIMINARY INSTRUCTIONS

- **Role of the Jury**

Now that you have been sworn, 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. I play no part in judging the facts. 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 make whatever legal decisions have to be made during the course of the trial, and I will explain to you the legal principles that must guide you in your decisions. You must follow that law whether you agree with it or not.

Moreover, although the lawyers may have called your attention to certain facts or factual conclusions that they thought were important, what the lawyers said is not evidence and is not binding on you. It is your own recollection and interpretation of the evidence that controls your decision in this case.

Finally, 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.

- **Sidebars**

During the trial it may be necessary for me to talk with the lawyers out of your hearing by having a bench conference. If that happens, please be patient.

We are not trying to keep important information from you. These conferences are necessary for me to fulfill my responsibility, which is to be sure that evidence is presented to you correctly under the law. We will, of course, do what we can to keep the number and length of these conferences to a minimum.

I may not always grant an attorney's request for a conference. Do not consider my granting or denying a request for a conference as any indication of my opinion of the case or of what your verdict should be.

- **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 things 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 that you see and hear in court. Do not let rumors, suspicions, or anything else that you may see or hear 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.

There are rules that 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. This simply means that the lawyer is requesting that I make a decision on a particular rule of evidence. You should not be influenced by the fact that an objection is made. Objections to questions are not evidence. Lawyers have an obligation to their clients to make objections when they believe that evidence being offered is improper under the rules of evidence. You should not be influenced by the objection or by the court's ruling on it. If the objection is sustained, ignore the question. If it is overruled, treat the answer like any other. If you are instructed that some item of evidence is received for a limited purpose only, you must follow that instruction.

Also, certain testimony or other evidence may be ordered struck from the record and you will be instructed to disregard this evidence. Do not consider any testimony or other evidence that gets struck or excluded. Do not speculate about what a witness might have said or what an exhibit might have shown.

- **Credibility**

In deciding what the facts are, you may have to decide 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 while testifying;
4. whether the witness has an 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' testimony or between the testimonies of different witnesses may or may not cause you to disbelieve a witness' testimony. Two or more persons witnessing an event may simply see or hear it differently. Mistaken recollection, like 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.

After you make your own judgment about the believability of a witness, you can then attach to that witness' testimony the importance or weight that you think it deserves.

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. What is more important than numbers or quantity is how believable the witnesses were, and how much weight you think their testimony deserves.

POST-TRIAL INSTRUCTIONS

- **Burden of Proof.**

This is a civil case. The Hansbras brought this lawsuit. PP&P is the entity against whom the lawsuit was filed. The Hansbras have the burden of proving their case by what is called the "preponderance of the evidence." That means the Hansbras have to prove to you, in light of all the evidence, that what they claim is more likely so than not so. To say it differently: if you were to put the evidence favorable to the Hansbras and the evidence favorable to PP&P on opposite sides of the scales, the Hansbras would have to make the scales tip somewhat on their side. If the Hansbras fail to meet this burden, the verdict must be for PP&P. If you find after considering all the evidence that a claim or fact is more likely so than not so, then the claim or fact has been proved by a preponderance of the evidence.

Here, the Hansbras must prove that Blaker was acting within the scope of employment with PP&P at the time of the accident. There will be an additional instruction on this element in due course. However, after considering all of the evidence, if you find this proposition is more likely true than not true, your verdict must be for the Hansbras. Otherwise, your verdict should be for PP&P.

In determining whether any fact has been proved by a preponderance of evidence in the case, you may, unless otherwise instructed, consider the testimony of all witnesses, regardless

of who may have called them, and all exhibits received in evidence, regardless of who may have produced them.

On certain issues, called affirmative defenses, PP&P has the burden of proving the elements of the defense by a preponderance of the evidence. Here, even though you may find that Blaker was acting within the scope of employment at the time of the accident, PP&P has the optional burden of proving that his action was unforeseeable and, therefore, PP&P cannot be held liable. After considering all of the evidence, if you feel persuaded that this additional proposition is more probably true than not true, your verdict must be for the defendant. Otherwise, your verdict must be for the plaintiff.

I will instruct you on the facts that will be necessary for you to find on this affirmative defense. An affirmative defense is proven if you find, after considering all evidence in the case, that PP&P has succeeded in proving that the required facts are more likely so than not so.

You may have heard of the term “proof beyond a reasonable doubt.” That is a stricter standard of proof and it applies only to criminal cases. It does not apply in civil cases such as this, so you should put it out of your mind.

- **Direct and Circumstantial Evidence.**

Evidence may either be direct evidence or circumstantial evidence. 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. It is for you to decide how much weight to give. You may decide the case solely based on circumstantial evidence.

- **Application of the Doctrine of *Respondeat superior*.**

An employer is legally responsible for the wrongful act of an employee committed during the course and within the scope of employment. In order to make this determination, you must consider the following factors:

- First, whether the act was of a kind and nature the employee was employed to perform;
- Second, whether the act occurred substantially within the authorized time and space limits; and
- Third, whether the act was set in motion, at least in part, by a purpose to serve the employer.

As discussed, Plaintiffs have the burden of proving **all three** of these elements by a preponderance of the evidence. In this case, you must decide whether or not, based on the testimony and evidence presented here today, it was more likely than not that:

- Reilly Blaker was conducting an act s/he was employed to perform when the accident occurred;
- The accident occurred within the time frame and location of where Reilly was authorized to work; **AND**
- Jaya Hansbra’s death was set in motion, at least in part, by a purpose to serve the interests of PP&P.

With respect to whether or not Reilly Blaker was conducting an act s/he was employed to perform, I want you to understand that an act is considered within the employee's authority only if, by a preponderance of the evidence:

- PP&P granted express authority to perform the act;
- The act was proper, usual, and necessary to the exercise of the authority actually granted by PP&P; **OR**
- Parker Plane's words or conduct would lead a reasonably prudent person to believe that Plane's Park & Polish knowingly permitted Reilly Blaker to conduct the act, according to ordinary experience and habits.

If, after you conduct your deliberations, you decide that it was more likely than not that all three of these factors existed when Reilly Blaker killed Jaya Hansbra, you must then determine whether PP&P proved, by a preponderance of the evidence, any of the affirmative defenses to liability that PP&P may have pursued at trial. The affirmative defense in this case will be discussed in a few moments.

However, if, at this juncture, you decide that Plaintiffs failed to meet their burden to prove any one of these three factors, then you must find in favor PP&P.

In this case, PP&P had the option of presenting an affirmative defense. That means, regardless of whether or not the Plaintiffs meet their burden of proof, you may still find in favor of PP&P **IF** the Defendant meets its own separate burden of proof. Here, if PP&P proves that it was more likely than not that Blaker's actions or the force used by Blaker were not "expectable" or reasonably foreseeable by PP&P, then you must find in favor of the PP&P. This factor is not merely dictated by whether or not a criminal act occurred. What is important to consider is whether or not the employer believed that Blaker's actions were possible.

Ladies and Gentlemen of the jury: on behalf of the Court and the Commonwealth of Pennsylvania, I thank you in advance for your careful thought and consideration as you deliberate the merits of this matter.

ROBIN HANSBRA and SANDRA
HANSBRA, Individually in their Own
Right,

Plaintiffs

v.

PLANE'S PARK & POLISH, LLC,
Defendant

IN THE COURT OF COMMON PLEAS
DAUPHIN COUNTY, PENNSYLVANIA

NO. 2009 CV 1769 CV

CIVIL ACTION – LAW

SPECIAL JURY INTERROGATORIES

[At many trials, the judge provides interrogatories like these to the jury at the end of the trial. The jury is instructed to reach a verdict consistent with the manner in which it answers interrogatories. ***A copy of these interrogatories may not be used as an exhibit during the mock trial competition.***]

To the jury:

To further clarify instructions given to you by the trial judge, you are being provided with the following verdict form. At the conclusion of your deliberations, one copy of this form should be signed by your foreperson and handed to the court clerk. This will constitute your verdict.

Remember that you are applying a preponderance of the evidence standard to each question.

Question 1:

Have the Plaintiffs proven to you that Reilly Blaker was engaging in an act s/he was employed to perform when the accident occurred?

Yes _____ No _____

If your answer is "Yes," proceed to Question 2. If your answer is "No," your verdict is for Defendant. Please skip the remaining questions, sign the verdict form and return to the courtroom.

Question 2:

Have the Plaintiffs proven to you that the accident occurred within the time frame and location of where Reilly Blaker was instructed to work?

Yes _____ No _____

If your answer is "Yes," proceed to Question 3. If your answer is "No," your verdict is for Defendant. Please skip the remaining questions, sign the verdict form and return to the courtroom.

Question 3:

Have the Plaintiffs proven to you that Jaya Hansbra's death was set in motion by an act of Reilly Blaker, at least in part, by a purpose to serve the interests of Plane's Park and Polish?

Yes _____ No _____

If your answer is "Yes," proceed to Question 4. If your answer is "No," your verdict is for Defendant. Please skip the remaining questions, sign the verdict form and return to the courtroom.

Question 4:

Has the Defendant proven to you that Reilly Blaker's actions were not reasonably foreseeable to the Defendant?

Yes ____ No ____

If your answer was "Yes," your verdict is for the Defendant and Plaintiffs cannot recover. If your answer is "No," then you have found in favor of Plaintiffs and against Defendant such that Defendant is liable to Plaintiffs for their harm. Please sign the verdict form and return to the Courtroom.

Jury Foreperson

Please return to the Courtroom

LIST OF WITNESSES

The Plaintiffs and the Defendant must call each of their respective witnesses. All witnesses can be played by either males or females.

The named Plaintiffs, parents Robin and Sandra Hansbra, are not included on the witness list. Teams representing the Plaintiffs at trial are permitted, however, to sit **one** student at the plaintiffs' table to represent a plaintiff/parent. Additionally, teams representing the defense may choose to sit the defendant's agent, witness Parker Plane, at the defense table. Please consult the Rules of Competition as to any limits on communications between counsel and those seated at counsel table.

For the Plaintiffs:

- Reilly Blaker: PP&P employee and driver of vehicle that struck and killed decedent
- Dylan Sabien: Former employee of PP&P

For the Defendant:

- Parker Plane: Sole shareholder and president of PP&P
- Brody Crisdale: Reilly Blaker's relative who sought a business relationship with PP&P

STATEMENT OF REILLY BLAKER

1 My name is Reilly Blaker and I am 33 years old. I am currently serving a 3 to 6 year sentence at
2 the State Correctional Institution at Camp Hill after having pled guilty to Homicide by Vehicle
3 while Driving Under the Influence. On April 18, 2008, I was driving the BMW 535i that struck
4 and killed Jaya Hansbra. About a year before the accident occurred, I thought my life couldn't
5 get any worse, but I was wrong, way wrong. Now all I want is to do whatever is right. I know I
6 can't bring her back and this empty feeling haunts me day and night as I sit in my cell and pay
7 for what I have done.

8
9 I guess I never really realized how good I had it. I graduated cum laude from Penn State in
10 1997 with a B.A. in Marketing. After graduation, I was quickly hired by PharmaCom in their
11 marketing department. PharmaCom is a national corporation headquartered in Harrisburg, PA.,
12 PharmaCom produced quality generic drugs but was expanding into new drug creation. I got in
13 at the right time and quickly moved up the ranks. In the fall of 2006, holding the position of
14 VP/Senior Marketing Director, I led a team that marketed PharmaCom's first self-created drug to
15 obtain FDA approval, Drostoveral, which was an opiate-based narcotic designed for recent
16 amputees - you know, for injured troops returning from Iraq and Afghanistan. The drug was
17 scheduled for public release in February 2007 and we were on a marketing blitz.

18
19 I was under a lot of pressure at that time and not sleeping well. I was constantly traveling
20 around the country for meetings with hospital reps and bureaucrats from the U.S. Department of
21 Veterans Affairs. To cope with my stress and lack of sleep, I actually started taking Drostoveral
22 without a prescription. It was just a few here and there from my samples. It helped me to calm
23 down. However, before I knew it, I was taking it almost every night.

24
25 If I can point to the beginning of the downward spiral in my life, it was PharmaCom's holiday
26 party in 2006. I decided that since I had been working harder than usual on the Drostoveral
27 account, I would have a few drinks. I wasn't a big drinker, but I ended up getting a bit more
28 intoxicated than I expected. I stupidly decided to drive home. I thought I could drive carefully,
29 but I must have been swerving and got pulled over. I failed the field sobriety test and was
30 arrested. The police searched my car and found samples of Drostoveral in my trunk.

31
32 They took a blood test. My blood-alcohol level was .20, plus I was positive for opiates. I was
33 charged with driving under the influence of both alcohol and of a controlled substance. I was
34 accepted into Pennsylvania's first-time offenders program known as ARD and after I completed
35 the program in August 2007, my charges were dismissed and my arrest record expunged.
36 However, the court of public opinion was not so kind. The story quickly made its way to the
37 newspapers with headlines like "Drug Rep Gets Done Doing Own Drugs." I became a laughing
38 stock. I lost my job and no other company, pharmaceutical or otherwise, would even look at my
39 résumé. What hurt the most was that my family was ashamed of me. I went from earning
40 \$200,000 to nothing. I was forced to sell my house and car.

41
42 After searching unsuccessfully for a marketing job over the next year or so, and with my bank
43 account dwindling, I decided to take any job that would have me. That's when I met Parker
44 Plane in late October of 2007 while applying for a vacant valet position with Plane's Park &
45 Polish. PP&P was an airport valet service that also did detailing work. It had locations in
46 Harrisburg, Philadelphia and Pittsburgh. I was totally upfront with Parker on my employment
47 application and reported my arrest in detail. I told Parker that I was not addicted to narcotics
48 anymore, that my driver's license was restored and that I was dedicated to turning my life
49 around. I was so happy that Parker decided to give me a chance. Parker, who used to be an

50 attorney, handed me a massive employee manual and told me to read it and sign a
51 Memorandum of Understanding acknowledging my understanding of the rules. However, I later
52 learned from other employees that the rules were rarely enforced. I was also given a description
53 of my position so that I knew exactly what I was responsible for.

54

55 My first few months at PP&P were great even though it was obvious the business was
56 struggling. I showed up early and left late. I even came in on my days off to help with the
57 paperwork. Parker appreciated my extra effort and we quickly became very close. Parker
58 regularly confided in me about the poor state of the business and asked me for marketing ideas.
59 Parker was desperate to jumpstart the business. I learned that Parker had fired the facility
60 manager in a cost-cutting move shortly before I started working. Parker needed a "number 1" in
61 Harrisburg and I was determined to take on that role. We started going out for "power lunches,"
62 usually in downtown Harrisburg, to discuss business. We also started to speak on the phone
63 almost daily. After about only two months, Parker allowed me to negotiate with some local
64 vendors and do some client coddling for corporate accounts. Parker even gave me a company
65 credit card to make purchases for the business. Parker told me that I could expect bonuses if I
66 kept up the extra time and effort. S/he told me I was her/his "new eyes and ears" at PP&P.

67

68 In early March 2008, I went to a family reunion in Cleveland, Ohio. I hadn't visited my relatives
69 since being terminated from PharmaCom. I flew from Harrisburg to Cleveland and rented the
70 nicest car possible so that my family would know I was doing better. They were so impressed
71 with the car that I could not bring myself to confess that I was just a lowly valet. So instead, I
72 told them that I had spent all my savings to buy a controlling interest in Plane's Park & Polish.
73 No one had heard of PP&P, but they were certainly taken aback. No one was more impressed
74 than my sister/brother-in-law Brody Crisdale. Brody owned a chain of ten lube shops dotted
75 throughout Ohio, called Maintain Oil Change. Brody was looking to expand the business across
76 state lines into Pennsylvania and asked if I thought Plane's might want offer some simple car
77 maintenance services, in addition to the detailing already offered. Brody thought this would be a
78 safe way of introducing the lube business to PA. I thought it was an excellent idea and told
79 Brody that I was certainly interested.

80

81 Less than a week later, Brody called and said s/he would be passing through Harrisburg on
82 Sunday, March 30, and wanted to check out PP&P's operations. Fortunately, Parker was
83 always in Philadelphia on Sundays and I was not scheduled to work so I knew I would have a bit
84 more flexibility in where I could be seen. The only real kink in my plan was that my fellow valet
85 Dylan Sabien was working that day. Dylan had been one of Parker's favorites until I showed up
86 and as a result Dylan harbored great resentment towards me for messing up the status quo. I
87 had to let Dylan in on my little white lie. I know it was wrong, but I really thought something
88 good would come out of this, for me and for Parker. Two days before Brody visited, I
89 approached Dylan and let her/him in on the plan. I asked Dylan to pretend that I was the boss
90 when Brody arrived. Dylan demanded \$1000 to do it. I agreed and maxed out my credit card
91 and paid off Dylan. To me this was a small price to pay to save face.

92

93 On Sunday, March 30, Brody came as scheduled, arriving at the airport around 2 p.m. Just
94 Dylan and I were there. I escorted Brody to the main kiosk and gave her/him a quick tour.
95 Brody came along with me when I dropped off a customer car at the detailing facility and we
96 returned in another customer car. Brody was really impressed with the operations and told me
97 that s/he was very interested in striking a partnership. Brody asked me to drive her/him to
98 downtown Harrisburg, to the Tiara Plaza Hotel, where s/he was staying for the weekend.
99 Without really thinking, I went into the kiosk and grabbed the keys to the nicest car in our long-
100 term storage, Mr. Emmanuel Garretson's candy apple red Panther YK9. Mr. Garretson was an

101 aloof millionaire and regular customer whom I guessed would not notice a few extra miles on his
102 Panther. Unfortunately, Dylan saw me do all of this. Brody threw her/his bag in the trunk and
103 hopped in. I was a bit worried because I remembered that Garretson always had golf clubs in
104 the trunk and everyone in my family knew how much I hated golf. Anyway, I dropped Brody off
105 at the Tiara without incident. I drove back filled with a mix of emotions. On one hand, I was
106 terrified I would get caught for taking the car. On the other hand, I was really excited that I was
107 going to help Parker's business and that I was able to keep my secret safe from my family.
108

109 Parker showed up for her/his next site visit on Wednesday April 2. Right after Parker arrived, I
110 saw her/him having a heated discussion with Dylan and then Dylan leaving in a huff. I decided
111 to act as if nothing was wrong and joined Parker about 15 minutes later. I helped Parker review
112 a few valet tickets. The tickets were our records of when a car was dropped off and what
113 service the customer requested. It also indicated the mileage logged on the vehicle. They were
114 paper logs that were fed into this small printer, much like a time clock. Parker had already
115 reviewed Garretson's log and didn't notice anything was amiss. I double checked the log and it
116 showed that the Panther had only been driven for 5.6 miles instead of the 20 or so I put on it. It
117 looked to me like Garretson's ticket had been altered, but I wasn't about to look a gift horse in
118 the mouth. I didn't say anything about my little excursion and just assumed that Dylan, for
119 whatever reason, decided to keep quiet.
120

121 Parker and I then hopped in the BMW 535i that s/he kept at the airport as a company car and
122 we drove out for a power lunch in Harrisburg. There, I broached the subject of Brody's offer. I
123 was really nervous but I knew I had to say something. So I told Parker that we were presented
124 with the most amazing opportunity and one that could really save the business. I told Parker
125 point blank that I had already shown Brody around the facility and that Brody really wanted to
126 move forward with a partnership. I justified my unilateral action by referencing the fact that
127 Parker was in Harrisburg that day, and that everything just happened so quickly. Plus, I thought
128 that this was okay since I had been given all of those extra responsibilities. Of course, I didn't
129 mention that I took the Panther for a joyride.
130

131 Parker was ecstatic and told me to "roll with it," to "really push hard on this one" and "to do
132 whatever it takes" to make it happen. Parker couldn't wait to meet Brody in person. I distinctly
133 recall Parker telling me to "wine and dine Brody like the Queen of Sheba." Parker ordered
134 champagne to toast what s/he thought was sure to be a successful future. This was the first
135 time I had any alcohol since my arrest, but it was just part of doing business so I joined the
136 toast. When we returned to the airport, Parker gave me a \$500 bonus check for "showing
137 initiative." It felt really good. It was much better than the \$8/hour plus tips I was making as a
138 valet. Before Parker left, s/he reminded me to treat Brody like s/he was the "Queen of Sheba."
139

140 Brody contacted me a week later. S/he was still excited about a possible partnership and was
141 ready to move forward. Brody wanted to meet in Harrisburg on April 18 at the Tiara Plaza Hotel
142 for a lunch meeting. Because I didn't have a car and couldn't afford a rental, I rationalized that it
143 would be okay to borrow Parker's company car. After all, Parker told me to do whatever it took.
144 Plus, though I had never borrowed it, I heard stories from other valets about Parker letting
145 employees borrow the BMW to run both personal and business errands. Unfortunately, I
146 couldn't get a hold Parker to tell her/him about the meeting before it happened.
147

148 I was scheduled to work the 7 a.m. to 3 p.m. shift on April 18. Parker was in Pittsburgh. Dylan
149 was scheduled to work the kiosk with me but was a no show. Around 11a.m., I grabbed the
150 keys to the BMW and changed into my best outfit and drove out to the hotel. I picked Brody up
151 around noon and we decided to have lunch at a fancy Italian restaurant, D'Luchiano's, in New

152 Cumberland. I drove Brody, who wondered why I was driving a new car. I told Brody the
153 Panther was in the shop and that this was a loaner. At the restaurant, we discussed Brody's
154 proposal in detail and it almost seemed too good to be true. Brody was so intent on getting a
155 foothold in Pennsylvania that s/he was willing to direct almost all of the profit from any
156 mechanical/maintenance work to PP&P. If I could make this happen, Parker would applaud me
157 for getting such a favorable agreement for the business. I felt like this was my chance to get my
158 career back on track.

159
160 The meeting seemed to last forever, at least 2½ hours, as we hammered out the details. Half
161 way through the meeting Brody suggested that we share a bottle of wine. Things were going so
162 well, I didn't think anything of it at the time – you know, all part of doing business. Brody even
163 ordered a second bottle, but I didn't drink any of that one. By the end of the meeting, we had a
164 tentative agreement where PP&P would offer simple mechanical services as a new level of
165 service and the profits from the work would be split 80-20 in favor of PP&P with Brody covering
166 all of the expenses. However, things were getting a bit too far along and I had no choice but to
167 tell Brody a bit about Parker because without Parker's signature the deal could never happen. I
168 referred to Parker as my silent partner and Brody did seem a bit surprised that I hadn't
169 mentioned Parker before, but I don't think it was too jarring. Of course, I put the meal on the
170 company credit card since Parker told me to wine and dine Brody like s/he was the Queen of
171 Sheba. I paid for the tip myself in cash – no need to be greedy.

172
173 As we drove back, I was filled with thoughts of past success and dreams of a rosier future. My
174 mind was racing. Just a few blocks from the hotel, I was preparing to make a right turn off the
175 Market Street Bridge on to Front Street, but I was so lost in thought that I didn't notice that the
176 light had changed to red. That is when Jaya Hansbra seemed to walk in front of me out of
177 nowhere. I tried to swerve, but struck her. The accident occurred around 3:30 p.m. The next
178 few hours were a blur. I got tested with a blood/alcohol of .08, just over the legal limit. In the
179 end, Jaya died and I eventually pled guilty to Homicide by Vehicle While Driving Under the
180 Influence. While I was sitting in the local holding cell, Parker came and visited me. Parker was
181 livid and couldn't believe that I would violate company policy by taking the BMW and drinking on
182 the job. Parker went on and on about how I had failed to reward her/his trust. I sat there in
183 silence except to say I was only trying to help.

184
185 Now the business is being sued for my actions. I feel bad for Parker and worse for Jaya's
186 family. I guess for Parker this is all a matter of money, but for me this is all about doing what's
187 right by Jaya's family. I took someone's life because I couldn't come to terms with my own. For
188 that I will never be forgiven.

189
190 *Reilly Blaker*
191 Signature
192 Signed and Sworn to before me
193

December 18, 2008
DATE

194 *Sara Tympani Smith*
195 Sara Tympani Smith
196 Notary Public, Commonwealth of Pennsylvania
197 My commission expires: **November 27, 2009**

STATEMENT OF DYLAN SABIEN

1 My name is Dylan Sabien and I am 28 years old. I currently reside in Harrisburg. I graduated
2 from Harrisburg's Capitol City High School in 1998. Since then I've held a collection of random
3 mostly dead end jobs. I am single and finally got a job in August 2008 at Dippin' Donuts after
4 having been unemployed since April 2008, when I got fired by Parker Plane. I regret not going
5 to college, but when I was a kid school was not a priority and I always found myself getting in
6 trouble. I couldn't get into college and have never really had the money anyway.
7

8 I started working at PP&P back in the fall of 2003 when the business first opened. I really liked
9 the job because the pay was good and I got to drive nice cars all day. I guess I never thought of
10 being a valet as a career, but that's what I was doing. In the fall of 2007, the business started to
11 take a turn for the worse. I could tell because my tips were way down. When the Harrisburg
12 facility manager was fired in September of that year and not replaced, I knew something was
13 up. Parker Plane, the owner, told staff that s/he was in charge of all on-site operations from
14 then on and we would be reporting to him/her. Rather than seeing this as a bad thing, I saw it
15 as an opportunity to show my worth.
16

17 Things went pretty well over the next few weeks. Every time Parker was at the airport I would
18 make it a point to speak to her/him. I took on extra shifts and even showed up early once or
19 twice. One day in early October 2007, I caught one of the other valets, Charlotte, using the
20 detailing facility for her own car without paying and reported her directly to Parker. Although I
21 felt bad for her, it was a violation of the employee manual, which was supposed to be like our
22 bible. I was really trying to make a good impression. Parker told me that s/he was really proud
23 of me for stepping up and said I was her/his "new eyes and ears in Harrisburg." But Charlotte
24 was never even reprimanded and Parker carried on like business as usual.
25

26 Parker was more concerned with being liked by the staff than with being a boss, especially after
27 s/he fired the facility manager. Parker was a really smart ex-hotshot attorney and thought of
28 every contingency, which s/he put in this massive employee manual. But at the end of the day,
29 s/he never followed through. I thought lawyers were meant to be hard-nosed and aggressive.
30 For example, Parker kept a really nice BMW at the airport, which s/he called her/his company
31 car. Parker would use it to check on staff and get to the detailing facility. Parker kept the keys
32 out in the open in the main kiosk, practically tempting the staff. But it was against policy for
33 anyone to use the thing without authorization. During my second year at PP&P, this valet,
34 Simon, used the BMW to run errands over lunch break without permission. The facility manager
35 caught him and reported to Parker who only offered up a toothless warning and let Simon back
36 into the company's good graces. It was really like there were no real consequences for any bad
37 act. Even I showed up late from time to time and nothing happened.
38

39 Things went from bad to worse when Parker hired Reilly Blaker in October 2007. I hated Reilly
40 right from the get go. S/he was a pompous stuck-up yuppie who thought s/he was better than
41 all of us because s/he had some fancy degree from Penn State. When all of us learned about
42 Reilly's history and fall from grace, none of us valets felt sorry for Reilly. What made it worse
43 was that s/he was constantly sucking up to Parker Plane. Parker fell hook, line, and sinker for
44 Reilly's sob story. They instantly became close, almost too close if you ask me. They went out
45 to lunch together in Harrisburg whenever Parker was in town and Reilly talked to Parker on the
46 phone at least a couple of times every week. It was totally inappropriate. Before we knew it,
47 Reilly was acting like our manager when Parker wasn't there. I became invisible to Parker.
48 One day in January 2008, I showed up about 30 minutes late for work. Reilly immediately

49 called Parker and before I knew it, Reilly informed me that I had been docked an hour of pay for
50 violating the code. From there on out, Reilly was my enemy.

51
52 However, revenge is so sweet when the person who has wronged you brings punishment upon
53 her/himself. Towards the end of March, Reilly approached me with the craziest idea I have ever
54 heard; like out of a sitcom. Reilly told me that some relative of her/his named Brody was
55 passing through town on March 30th. Reilly admitted to me that s/he had been embarrassed
56 s/he was "just a valet" so s/he had told her/his relatives a "little white lie": that s/he owned
57 Plane's Park & Polish! Reilly didn't want to get found out so s/he asked me that when Brody
58 visited, if I would pretend that Reilly was the boss. I laughed in Reilly's face but decided I would
59 do it if Reilly would pay me \$1,000. Reilly was so desperate, s/he agreed.

60
61 I played it real cool for Reilly when Brody showed up. I was all "yes m'am/sir" this, and "yes
62 m'am/sir" that. Reilly and Brody took this one customer's car over to the detailing facility and
63 returned within a half-hour or so with a drop-off. But, then things got a bit weird. Reilly and
64 Brody had some hushed conversation near the main kiosk and before I knew it, Reilly took the
65 set of keys that belonged to one of our long standing customers, old man Garretson. Reilly
66 headed out on foot to long term parking and returned a few minutes later in Garretson's Panther
67 YK9. Brody threw her/his bag in the trunk and hopped in like it was nothing and the pair left with
68 a roar. I had Reilly right where I wanted her/him now. When Reilly got back about an hour later
69 s/he knew that there was no excuse that could justify joyriding. You could see it in her/his eyes.
70 Reilly was scared.

71
72 I decided to rat out Reilly. There was nothing that could explain this away. It was the biggest
73 violation there was, joyriding in a customer's car. Reilly was done for sure. Plus, it was only a
74 few weeks before that I overheard Parker reaming out Reilly for calling up a corporate client
75 without Parker's knowledge or permission. Finally, I thought Parker had figured out Reilly's
76 game.

77
78 Parker next came to the Harrisburg on April 2 and I quickly found Parker at the main kiosk
79 reviewing customer valet tickets and I think I even saw her/him messing with one of them, but I
80 am not sure about that because I was concentrating on how I would tell on Reilly. I ran up to
81 Parker and blurted out that I had something really important to discuss. I told Parker first that I
82 knew everyone knew I didn't like Reilly, but that what I was about to say was completely true
83 and that I had the evidence to prove it. That got Parker's attention. I told Parker that Reilly had
84 brought a relative by the airport the other day and that Reilly pretended to be the owner of the
85 business. Of course, I said nothing about the \$1,000 Reilly paid me. Parker replied that Reilly
86 must have had a good reason and I shouldn't be so concerned with Reilly. Parker was actually
87 impatient with me for questioning Reilly's behavior! I then decided to drop the big news on
88 Parker. I told Parker that Reilly took her/his relative for a joyride in old man Garretson's
89 Panther. Parker didn't believe me! Parker said Reilly would never do something like that and
90 that I shouldn't "slander" my fellow employees.

91
92 I pleaded with Parker to believe me and to check the valet ticket because the mile listing would
93 prove Reilly went joyriding. Parker had just reviewed Garretson's log and immediately pulled
94 out the ticket, which I thought suspicious. Parker said there was nothing unusual and showed
95 me the ticket. I was dumbstruck. The ticket showed the Panther had only been driven 5.6 miles
96 since drop off, the exact round trip distance from the detail shop back to long term parking. I
97 took a closer look and the ticket looked like it had been altered, like sort of rubbed a bit around
98 the numerals. I'm no forensics expert but it was pretty plain to me someone messed with the
99 ticket. However, there was no convincing Parker who was pretty disgusted with me and I guess

100 felt that my entire story was a ploy to get Reilly in trouble. Parker told me that from now on, I
101 would be scheduled to work with Reilly so that I could make sure that Reilly was not breaking
102 the rules. Parker patted me on my back and said, “remember, you’re my eyes and ears in
103 Harrisburg.” It was really condescending. I kind of gave up on Plane’s Park & Polish after that.
104 Too bad Parker didn’t come through; if s/he had believed me, Jaya would be alive today.
105

106 As soon as I walked away, Reilly came right up to Parker. I watched without them seeing me.
107 They shook hands and sort of half-embraced, which I thought was really strange considering
108 what I’d just told Parker. It was pretty obvious that Parker didn’t even mention my accusation.
109 Instead the two of them continued reviewing the customer valet tickets and then left about
110 twenty minutes later in Parker’s BMW for what I guessed was one of their “power lunches.” I
111 was really upset that Reilly had gotten away with essentially stealing a customer’s car. I didn’t
112 lift a finger the rest of the day, I was so disgusted.
113

114 I was still doing nothing when they returned about an hour and a half later. They didn’t notice
115 me standing near the departures terminal out of their view, about thirty feet from the main kiosk.
116 I could see and hear everything. They were both real animated and I thought a bit drunk.
117 Parker had been so miserable over the past few months, so I couldn’t imagine what all of the
118 hoopla was about. They kept going on and on about this partnership agreement and Parker
119 said it was going to “save the business.” Parker kept complimenting Reilly for thinking “outside
120 of the box” and going “above and beyond the call of duty.” Parker took out the corporate check
121 book and wrote out a check to Reilly. I don’t know how much it was for, but the fact Reilly was
122 getting paid for breaking the rules was beyond belief. I knew that Parker was desperate for
123 business, but to pay someone for breaking the rules when I got scolded like a child and docked
124 pay for being late just a few weeks ago was completely ridiculous. Talk about double
125 standards, this one took the cake.
126

127 Anyway, before Parker left I distinctly heard Parker tell Reilly to treat Brody like “the Queen of
128 Sheba” and to do “whatever it takes to get Brody on board.” Anyone seeing this would have
129 known for sure that Reilly was being used as far more than just another valet. Parker and Reilly
130 obviously had some special relationship; something more than employer-employee and I was
131 left on the outside looking in.
132

133 Over the next two weeks, my disgust with Parker Plane and PP&P grew. I showed up late and
134 cut out early, and did as little as possible when I was there. No one paid me much attention. I
135 was kind of working on April 18, the day of the accident. Around 11 a.m., I saw Reilly grab the
136 keys to Parker’s BMW. Reilly was all dressed up. I wish I could say that I was surprised to see
137 Reilly doing this, but after the whole thing with Garretson’s car, nothing about PP&P shocked
138 me anymore. Why would it matter that Reilly took the boss’s ride, the supposed company car,
139 out for a while? Just like it didn’t matter when Simon took it. The rule book didn’t mean
140 anything anymore and my word was certainly worthless.
141

142 Well, needless to say, Reilly got what was coming. That afternoon, Reilly ran down a pedestrian
143 and now Reilly is where s/he should be, sitting in jail. Talk about just deserts, I just wish it didn’t
144 have to come at the expense of a life. If you force someone into a corner, most of the time they
145 feel as if they have no choice but to act and usually it is a pretty stupid action. That just about
146 sums up that idiot Reilly Blaker. Anyway, after the accident, Parker was out for blood. S/he
147 showed up in Harrisburg the next day and held a big meeting. Parker suspended everyone who
148 was on shift with Reilly April 18 and I was fired because I had showed up late. Frankly I was
149 happy to be fired. I would’ve quit. Unfortunately, I got denied unemployment benefits since I was

150 fired for willful misconduct. I tried to get Parker to tell them I was fired as a result of down
151 sizing, but s/he wouldn't do it.

152
153 I have no reason to lie or make anything up about this. I no longer work for PP&P and there is
154 no way I am going to see any of the money from this lawsuit. I heard what I heard and saw
155 what I saw and that is it. Parker is the one is really responsible for this accident. If s/he had
156 never hired Reilly or egged her/him on the way s/he did none of this would have happened.

157
158

159 *Dylan Sabien*

December 18, 2008

160 Signature

DATE

161 Signed and Sworn to before me

162

163 *Sara Tympani Smith*

164 Sara Tympani Smith
165 Notary Public, Commonwealth of Pennsylvania
166 My commission expires: **November 27, 2009**

STATEMENT OF PARKER PLANE

1 My name is Parker Plane and I am 43 years old. I'm divorced and reside in Ardmore,
2 Pennsylvania, an affluent suburb of Philadelphia. I own 100% of the shares of Plane's Park &
3 Polish, LLC, a valet and car detailing service with locations at the three major Pennsylvania
4 international airports – Philadelphia, Harrisburg and Pittsburgh. Let me start off by stating, as a
5 former licensed attorney in the Commonwealth of Pennsylvania, that although I feel terrible
6 about the trauma that has befallen Jaya Hansbra's family as a result of Reilly Blaker's actions,
7 my business is in no way responsible for this harm. Reilly was a rogue employee with dreams
8 of grandeur that motivated this horrible malfeasance and Reilly clearly acted without
9 authorization. To hold my company liable would set a horrible precedent for all small business
10 owners across the state, which the Court cannot allow to happen.

11
12 I started Plane's Park & Polish in 2003 right after I separated from my spouse. I needed to
13 change my life and saw an opportunity for a new type of business and jumped into it. I used to
14 fly all over the country as an attorney and it always bothered me that I would have to walk for
15 what seemed like miles to an airport shuttle just to get to my car. This gave me the idea for
16 Plane's Park & Polish. I added the detailing service as a way to distinguish the business and
17 cater to high-end clientele. I invested almost all my life's savings in to it and also secured loans
18 in excess of \$500,000. The loans were secured in part against my personal assets including a
19 house valued at \$750,000 in Ardmore and my summer home in Avalon, New Jersey, valued at
20 \$500,000.

21
22 The business model for PP&P is that a customer will drop off his or her car at a strategically
23 placed kiosk in the departure concourse. While the car is under our care, customers have the
24 option of having their cars detailed at a nearby facility which I also own. We offer four levels of
25 service each with its own clever marketing name: Drop n' Fly (Level I: valet only); Wax Poetic
26 (Level II: wash and wax); Dream Clean (Level III: wash, wax, and interior); and Queen of Sheba
27 (Level IV: full detail). The Harrisburg detailing facility was a few miles off-site from HIA, in
28 Middletown.

29
30 Our customers would leave their cars with an attendant and sign a contract including a term that
31 authorized us to take their car off-site to long-term parking or to a detailing service (capped at
32 ten miles). The valet would print out a valet card with the owner's name, car make and model,
33 level of service purchased and the mileage on the car when it was dropped off and returned
34 using this device that was similar to a time clock. I did this to ensure that no "extracurricular"
35 trips were made by the valet. A unique part of our service is that we monitored flight arrivals
36 and would have the customers' car waiting for them when they arrived in the terminal.

37
38 As I was a former attorney, I knew right from the start the importance of minimizing risk and
39 limiting liability. For the record, I specialized in corporate shareholder litigation and therefore
40 was well versed regarding issues of board of directors and majority shareholder liability. The
41 contract and the valet card were only a small part of the contingencies I had initiated. Of
42 course, I carried a large insurance policy, with Franklin Insurance Co., to cover all
43 unforeseeable contingencies. I consistently paid all of my premiums on time and purchased the
44 broadest range of coverage possible. Primarily, the insurance policy covered vehicle accidents
45 that occurred while a customer's car was transported by one of the valets. Anyway, my lawyer
46 told me that the only reason I'm being sued instead of Reilly is because s/he's judgment proof.

47
48 In addition to the contract and valet ticket, I instituted a detailed employee manual. This manual
49 was like the bible for all of my employees. The manual was strictly enforced and all employees

50 were required to sign a memorandum of understanding before commencing work stating that
51 that they had read the entire manual and would comply fully with all of its regulations.
52 Infractions of the code carried varying levels of punishment at my ultimate discretion ranging
53 from loss of shift and pay to termination. Importantly, there were clauses regarding joyriding,
54 misrepresentation, driving under the influence of alcohol or drugs, tardiness, unauthorized use
55 of the company car, and general misconduct including discrimination. I know it may seem like I
56 was too hard on the employees, but after what happened to Jaya Hansbra, I think I was more
57 than justified in running the business with a strong hand.

58
59 I also gave every employee a copy of his or her job description so that they knew the exact
60 parameters of the position. Out of all of the rules and regulations I imposed, the one I took most
61 seriously was driving under the influence. My brother had been killed by a drunk driver about
62 ten years ago. Creating awareness of this problem was one of my main charitable causes when
63 I was both an attorney and as owner of PP&P. I often made donations to organizations such as
64 Mothers Against Drunk Driving (MADD). If there was one thing I expected, it was that my
65 employees wouldn't drive drunk.

66
67 My employees mostly adhered to the manual and violations were rare. I admit I made a mistake
68 in 2004, when one of my valets named Simon drove my company car, a BMW 535i, that I kept
69 on site in Harrisburg for personal use. The BMW was registered in the name of the business
70 and covered under our insurance policy. Simon didn't own a car and only took the BMW to pick
71 up medication for his sick kid. Rather than firing Simon, I issued a warning, but modified my
72 employee manual to make it clear that no employee could operate the BMW under any
73 circumstances unless given specific permission.

74
75 My business was initially a great success, but as the nation's economy started to nose dive over
76 the past two years, the business did as well. When people and businesses are under financial
77 strain, they cut spending on extravagances like valet parking and detailing services. PP&P
78 suffered a third quarter loss in 2007 in excess of \$100,000. I was confident things would turn
79 around, but I was constantly thinking of ways to increase revenue and cut expenses. I was
80 fearful that if revenues didn't improve, I might have to declare bankruptcy.

81
82 My first action was to terminate the facility managers at my three locations in September 2007.
83 I felt these mid-level managerial employees weren't worth the salary I was paying and that I
84 could assume these additional responsibilities myself. However, I also knew that my valet and
85 detailing staff would have to step up and take on additional responsibility, and work on the honor
86 code because there was not always going to be direct supervision. To coordinate my activities
87 at the three different branches, I created a very detailed schedule for myself. I would visit each
88 location in succession twice a week. During the visits, I would set up the weekly work schedules
89 and review all customer accounts. I prided myself on my attention to detail and ability to multi-
90 task. Unfortunately, even with my cutting staff, however, the next two quarters were just as bad
91 as the previous two.

92
93 I hired Dylan Sabien in 2003 when I first opened the Harrisburg facility. Dylan was a good
94 employee generally speaking; s/he liked driving the cars and was fairly reliable, but definitely
95 aloof with little to no motivation. Dylan developed a history of tardiness and would make up the
96 craziest and most laughable excuses. Stuff like, s/he hopped off the bus to help an old lady
97 change a flat tire, or s/he got mud on her/his uniform and her/his washing machine was broken.
98 The stories were so creative that I never bothered to punish Dylan. They were truly more
99 entertaining than anything else. When I fired the facility manager in September, Dylan
100 approached me out of nowhere seeking more responsibility. Dylan became so eager to please

101 that s/he even reported a fellow employee, Charlotte, for using the detailing facility without
102 paying. Because I was distracted with the direction of the business, I decided to let Charlotte
103 slide. I couldn't afford to re-advertise and she was an otherwise solid employee.
104

105 Charlotte quit a few weeks later anyway and I hired Reilly Blaker, in late October 2007. We
106 don't usually get valets with Reilly's pedigree, but Reilly's situation was unique. I recalled
107 reading in the *Philadelphia Inquirer* about Reilly's past criminal convictions and termination from
108 PharmaCom. It was a big story at the time. Tabloids love stories of falls from grace. However,
109 when Reilly applied, that incident was over a year old. Reilly couldn't get a job anywhere and I
110 felt bad for her/him. Reilly promised me that s/he had been through therapy, rehab and AA and
111 was completely reformed. I decided to give her/him a chance. This obviously was a huge
112 mistake. But it looked good at the time since Reilly was a former marketing manager and I had
113 in the back of my mind that s/he could contribute marketing ideas about how to increase PP&P's
114 exposure. In no way did I ever consider putting Reilly in a position to actually represent the
115 company. It would have been foolish to place a person with such a tarnished reputation in any
116 sort of position of power or authority. Unfortunately, Reilly's life was out of control and her/his
117 rogue and unpredictable behavior had the same effect on my business.
118

119 Reilly was initially a superstar; s/he would show up early and stay late to help with
120 administrative tasks. S/he even came in on off days even though I didn't pay for this extra
121 effort. Reilly raised the bar for the other employees. Reilly often approached me with a
122 marketing idea, which I really appreciated considering the financial struggles we were facing.
123 Some of them worked well, like sending flyers and coupons to state workers. But, I didn't want
124 Reilly to get too big for her/his britches, so I always reminded Reilly that s/he was just a valet.
125

126 I did reward Reilly for new ideas by taking her/him to Harrisburg for lunch when I was in town.
127 Also, in January 2008, I decided to let Reilly make some contact with our vendors and gave
128 Reilly use of the company credit card for that purpose only. Reilly and I often spoke on the
129 phone and I truly did rely on and became fond of her/him. Reilly did have a bad habit, however,
130 of hearing what s/he wanted to hear and ignoring my specific direction. When I found out that
131 Reilly was communicating with some corporate accounts and reprimanding fellow employees, I
132 quickly put a stop to it. There was no way I wanted Reilly out in public representing PP&P. To
133 be crystal clear, I never placed Reilly in a managerial position and Reilly had no special
134 authority over the rest of the staff.
135

136 On April 2, I was at the Harrisburg facility reviewing the valet tickets from the previous week
137 when Dylan approached me. Dylan was really upset and started criticizing Reilly for bringing in
138 a relative to work and walking around like s/he owned the business. I told Dylan to calm down
139 and that I would handle it. But Dylan wouldn't let it go and accused Reilly of taking Emmanuel
140 Garretson's Panther out for a joyride. I couldn't believe Reilly would do something so stupid and
141 told Dylan as much. I knew that Dylan resented Reilly, so I dismissed it as another of Dylan's
142 tall tales. Dylan said s/he had proof and directed me to review Garretson's customer logs,
143 which I had just reviewed 30 minutes earlier. When I reexamined the valet ticket it looked
144 perfectly normal. In fact, the log only registered 5.6 miles, the exact round trip distance to the
145 detailing facility and back to the long term parking facility. To me it didn't look like the ticket was
146 altered in any way, shape or form. I certainly didn't mess with it.
147

148 Almost as soon as Dylan left, Reilly came over to the kiosk and we finished reviewing customer
149 logs. We then went out for our usual lunch. Reilly told me over lunch about a new idea which
150 could expand our business and our market share. Reilly told me that her/his sister/brother-in-
151 law Brody Crisdale, who owned a chain of lube shops in Ohio, was looking to expand into

152 Pennsylvania and wanted to look into a possible partnership with PP&P. Reilly explained to me
153 that through a partnership, we could start offering basic mechanical work and oil changes as
154 part of a new level of service. This business prospect excited me. But then Reilly revealed that
155 s/he had already shown Brody around the facility. I lambasted her/him so loud for taking such
156 liberties that the other restaurant patrons were staring at me. But my anger quickly subsided in
157 light of the opportunity. I ordered us a couple of glasses of champagne to toast the prospect. I
158 told Reilly that it was important to “not let this one get away,” and to get me in touch with Brody
159 as soon as possible.

160
161 I did tell Reilly that s/he should “wine and dine Brody like the Queen of Sheba.” But that was
162 really just a figure of speech and a perfect example of Reilly hearing what s/he wanted to hear.
163 Queen of Sheba was our highest level of valet service and what I meant was that Reilly should
164 not do anything to upset Brody and lose the deal for us. In no way was I telling Reilly to take
165 Brody out for a business lunch involving alcohol. When we returned to the main kiosk, I did give
166 Reilly a bonus check for her/his effort but it was for making the connection with Brody and
167 nothing more. As far as I was concerned, I was going to handle the deal from here on out and
168 told Reilly that I was very excited to meet Brody in person. I told Reilly to give me Brody’s cell
169 number so I could make the contact but Reilly never did that and I was too busy to follow up. I
170 never told Reilly to do “whatever it takes” to make a deal with Brody.

171
172 On April 18, the day of the accident, I was in Pittsburgh. I had no expectation whatsoever that
173 Reilly would take my BMW or that Reilly would meet with Brody without me. I had no clue this
174 unauthorized meeting would take place. I was also shocked to learn that Reilly drank during the
175 meeting and was foolish enough to drive. I took every measure possible to curtail such reckless
176 and unexpected actions. Meeting with potential business partners was not the kind of work
177 Reilly was employed to perform; s/he was a valet. The accident occurred well outside the
178 location of where any of our driver’s would need to be. In addition, Reilly had no permission to
179 use the company credit card for anything other than dealing with our vendors. The fact that my
180 business paid for the lunch with Brody, as well as for two bottles of wine, only added insult to
181 injury.

182
183 At the end of the day, Reilly was a rogue employee consumed with visions of grandeur and a
184 return to prominence. Her/his actions were uncontrollable, completely selfish and
185 unforeseeable, and therefore my business cannot be held liable. Today, Plane’s Park & Polish
186 is still in operation, but I had to file a Chapter 11 petition in bankruptcy to protect PP&P while I
187 attempt to reorganize the business to try and stay afloat.

188
189 *Parker Plane* December 19, 2008

190 Signature DATE
191 Signed and Sworn to before me
192

193 *Sara Tympani Smith*
194 Sara Tympani Smith
195 Notary Public, Commonwealth of Pennsylvania
196 My commission expires: **November 27, 2009**

STATEMENT OF BRODY CRISDALE

1 I am Brody Crisdale and I am 37 years old. I reside with my spouse, Jackie, and our three
2 children in Cleveland Heights, Ohio. I was riding in the car with Reilly Blaker when s/he hit and
3 killed Jaya Hansbra. Because I was involved in the accident and the only real eye witness, I
4 had to give a statement to the police. I was given a copy of the police report for my insurance
5 records in case I suffered any future health issues as a result of the accident. Ultimately, I was
6 approached by both sides involved in this litigation.
7

8 I am the sole proprietor of Maintain Oil Change. My company consists of ten basic car
9 maintenance and oil change facilities located throughout Ohio. When I was twenty, I inherited
10 the business from my mother when she passed away. I was attending the Cleveland Institute of
11 Art but had little choice but to quit and take over the family business. I often dreamt of selling
12 the business and opening art supply stores. But at the end of the day, the income was too good
13 and I kept the business. I never really considered myself a business person, but I am now.
14 When life deals you a set of cards, you can't just fold – you gotta play your hand.
15

16 Jackie and I had our third child, Brianna, in March 2006, and with the sluggish economy, we
17 began to feel some financial strain. Revenue was down and family expenses up. For the first
18 time in years, I started to think of ways to expand the business. I considered expanding into
19 Pennsylvania. This seed of an idea, unfortunately, took root at a family reunion/birthday party
20 we had in March 2007, when we were reunited with Reilly Blaker. This was the first time
21 anyone had seen Reilly since s/he had been scandalously fired from PharmaCom.
22

23 Reilly was Jackie's only sibling and frankly, a person I never cared for. The family lore was that
24 Reilly had been a wunderkind. Initially, Reilly almost got expelled from high school for cheating
25 on a chemistry exam, but rebounded to turn her/his young life around. Reilly responded to
26 doubters about her/his intelligence and integrity as if on a mission to prove everyone wrong. All
27 Reilly did was study, and from there on out, Reilly could do no wrong in her/his family's eyes.
28 Reilly ended up a high school valedictorian and graduated from college with honors. Reilly then
29 went on to become the youngest vice president in PharmaCom history. Despite all this,
30 something about Reilly rubbed me the wrong way; like Reilly was exempt from the rules that
31 applied to the rest of us.
32

33 Part of my resentment was because Reilly didn't think I was good enough to be married to
34 Jackie. Reilly looked down on my business and mocked me with taunts of "grease monkey" and
35 "ratchet head," even though I didn't know the difference between a carburetor and catalytic
36 converter. Reilly flaunted her/his success - fancy cars, expensive clothing – at every
37 opportunity. Everyone was entranced by Reilly's material success. One thing that drove me
38 crazy was how Reilly felt the need to lie and exaggerate even though s/he had so much. For
39 instance, Reilly told the family that as vice president, he/she earned \$1 million a year. As
40 PharmaCom was a publicly traded company, the VP salary was published in SEC filings. Reilly
41 actually made \$150,000. I have no idea why Reilly would lie about this. When I confronted the
42 family, they just offered excuses, like I wasn't considering bonuses and that at the end of the
43 day it was "just Reilly being Reilly." The scariest part about it was that Reilly was so believable
44 when s/he spewed this nonsense. I truly think Reilly was delusional and believed the lies s/he
45 would tell.
46

47 The strangest lie that Reilly ever told was about 15 years ago, right after I got married. Reilly
48 had just started at Penn State and came to our house for Thanksgiving. We were enjoying the
49 traditional meal when Reilly, out of nowhere, announced that s/he had hit the lottery and won

50 \$2,000. Reilly promised to take everyone out to the fanciest restaurant in town. The next night,
51 we went out and lived it up. We ordered the most expensive items on the menu and went
52 through three bottles of wine. Reilly tried to charge the \$450 tab to her/his credit card, but it got
53 rejected and I ended up footing the bill. Reilly promised to pay me back as soon as the lottery
54 ticket cleared, but it never happened. This was pretty indicative of Reilly's character.

55
56 When Reilly got busted over the holidays in 2006 for DUI, I did not feel sorry for Reilly at all. I
57 thought it was a good thing because it would make Reilly sober up. Now that over a year had
58 passed since Reilly's fall from grace, I was expecting Reilly to return to the family reunion a
59 humbled person. Instead, Reilly roared up to our house in a rented, cherry red sports coupe.
60 Reilly hopped out and swaggered into our house and everyone turned their attention away from
61 Brianna's birthday. Reilly proclaimed that s/he had turned the page on past troubles and was
62 now the proud new owner of a valet business called Plane's Park & Polish. Reilly boasted that
63 this business served the three major airports in Pennsylvania. My mouth was agape. Reilly,
64 who made fun of me for my involvement in the automotive industry, was now so proud to be in
65 that same business. But then, I thought of a way to take advantage of Reilly to expand my own
66 business into Pennsylvania.

67
68 After the excitement died down a bit, I approached Reilly and asked detailed questions about
69 the new valet business. I was a bit hesitant when Reilly boasted about the great financial
70 success of the business, because I was sure Reilly was exaggerating. I was also concerned
71 because Reilly didn't seem to have too firm a grasp on the general principles of managing a
72 business that even an owner of a corner store would have. But, when the idea hit me that I
73 could possibly convince Reilly to add some simple mechanical work to the valet and detailing
74 services offered by PP&P, I let go of my hesitation. I told Reilly that I saw a future for me with
75 PP&P and Reilly got really excited. When Reilly left to go back home, I was feeling good about
76 the whole situation and thought I might have a great solution to my financial concerns.

77
78 After speaking to a couple of my managers, I decided to pursue a possible partnership with
79 PP&P in earnest. I decided to first make some site visits. I would've preferred Pittsburgh, but
80 Reilly called and said s/he could only meet at the Harrisburg facility. This was the first of many
81 signals that something wasn't quite right, but I only put it all together on the day of the accident.
82 I made arrangements to visit Reilly on March 30, 2008 and also decided to research starting a
83 business in Pennsylvania.

84
85 When I arrived at HIA, Reilly greeted me dressed to the nines. I was ushered quickly to the
86 main kiosk where we met one of Reilly's employees named Dylan. Dylan was polite, but almost
87 overly flattering. Funny thing was that I didn't see any other employees. We ventured out to the
88 detailing site in a customer car that had just been dropped off. I realized how easy it would be
89 to convert one of the garage bays into an oil change facility. I again told Reilly that I thought
90 s/he had something really good going and that I was very interested in the possibility of a
91 partnership where I could provide all of the equipment and personnel to create a new level of
92 service for Reilly's business. When we got back to the main kiosk, I asked Reilly for a ride to
93 my hotel so we could discuss business a bit more. Reilly was hesitant, but I pushed the issue
94 and Reilly left to go get her/his car. I threw my bag in the trunk next to a set of golf clubs and
95 hopped in Reilly's fancy Panther. I thought it strange that Reilly had golf clubs since everyone
96 knew how much s/he hated the game. We headed off to downtown Harrisburg to the Tiara
97 Plaza Hotel. Reilly was almost completely silent during the entire drive and drove very
98 cautiously, like s/he was terrified of something bad happening. In hindsight, it was because it
99 wasn't Reilly's car.

100

101 Notwithstanding these warning signs, I decided to go ahead and take advantage of Reilly's
102 business. When I returned to Cleveland, I met with my lawyer and she drew up the basic
103 outline of a partnership agreement. I wanted to move quickly so I made arrangements to meet
104 Reilly again in Harrisburg on April 18.

105
106 Reilly picked me up at the Tiara Plaza Hotel in yet another car, a BMW. When I asked, Reilly
107 said that it was a loaner because the Panther was in the shop. Reilly was again really quiet
108 during the ride. I noticed during the ride to the restaurant that there were a couple of business
109 cards in the car's ashtray. To my great surprise, the card read "Parker Plane, President –
110 Plane's Park & Polish." Reilly was concentrating so hard that s/he didn't see me pick up the
111 business cards. I knew right then and there that Reilly had made everything up and was
112 completely wasting my time. Reilly was most likely in no position to make any decisions on
113 behalf of the business and everything s/he had told me about Plane's Park & Polish was a
114 scheme to make her/himself appear larger than life once again. I was being taken for a ride
115 both literally and figuratively. Some people will go to any length to save face.

116
117 I wanted to hop out of the car right there and then, but decided to make the most of this bad
118 situation. I thought back to that lottery dinner in Cleveland 15 years ago when Reilly stuck me
119 with that huge bill and decided I would exact a small bit of revenge. When we finally got to the
120 restaurant, I laid it on real thick. I ordered the most expensive items on the modest lunch menu.
121 When we started speaking about the partnership agreement, I scrapped my original proposal
122 and made the most outrageous offer I could think of; I suggested that almost all of the profit
123 from the new partnership would be directed to Plane's Park & Polish. Any businessperson
124 would have known this was not a serious proposal, but Reilly was so delusional, I'm pretty sure
125 s/he thought I was completely serious. After the meeting had gone on for about an hour, I
126 ordered a bottle of wine, to make sure I was getting my money's worth. I admit that was a
127 mistake. I even convinced Reilly to let me order a second bottle. Reilly had nervously kept
128 pace until that point.

129
130 Even though I was getting intoxicated, I could now clearly see everything had been a scam. I
131 was completely convinced that even if Reilly was an employee of Plane's Park & Polish, there
132 was no way s/he had any authority over these negotiations. For example, Reilly had no clue of
133 the value of Plane's Park & Polish or how much s/he had even invested in the business. At one
134 point during the meeting, Reilly told me it was worth \$1.5 million but later told me it was worth
135 \$2.75 million. In addition, Reilly didn't know the limits of PP&P's insurance coverage, and
136 contradicted her/himself when I asked how much the monthly premium cost.

137
138 Most importantly, after I kept pressing Reilly to sign the deal that day, s/he finally admitted that
139 s/he could not sign off on the agreement without her/his business partner, Parker Plane,
140 agreeing to the parameters. This was the first time Reilly had mentioned Parker and I think only
141 because her/his back was against the wall. When I asked Reilly why s/he never mentioned
142 Parker before, s/he said that Parker was a silent partner and didn't like to be bothered. That
143 really made no sense seeing as Parker's name was on the business card. Reilly was so
144 delusional that s/he actually thought I would believe that. But, I was having so much fun seeing
145 Reilly sweat that I agreed to let her/him have some more time. When the bill came, I stared
146 Reilly down until s/he finally picked it up and put it on a PP&P credit card. This time it wasn't
147 rejected.

148
149 When we got in the car, Reilly didn't appear intoxicated, but like I said, I had had a bit too much
150 to drink and was in no position to really assess Reilly's state. If I had known what was going to
151 happen, I would have taken a taxi. Instead, Reilly once again drove like in a trance. In an

152 instant, we went from complete silence to hearing a terrible thud and then sirens and the
153 commotion of a crowd. Reilly is of course alone responsible for this accident. All of the lies and
154 misrepresentations peddled by Reilly finally knocked down forever the false image of Reilly,
155 which her/his family had placed so high on a pedestal. If Reilly didn't have so big of an ego,
156 Jaya would be alive today.

157
158 Believe me, in my many years of running Maintain Oil Change, I have had to deal with a lot of
159 bad employees like Reilly Blaker who work outside the rules. These employees can ruin the
160 businesses that owners like me work so hard to create. They can cause us to lose customers
161 and profits, and in some cases, get the business sued. That has happened to me, and now to
162 Parker Plane, and believe me, it is no fun and very destructive to the small business owner.

163
164 Anyway, I have made this statement under oath. I would never lie about this situation, no
165 matter how stupid or reckless Reilly acted, and no matter how much resentment I harbored
166 towards Reilly for creating all of this absolutely unnecessary pain. Nor would I lie even to help
167 heal the rift in my own family that this ordeal has caused between myself and Jackie, who is
168 dealing with the fact her/his sibling took an innocent life and forever stained the family name.

169
170

171 *Brody Cuisdale*

172 Signature
173 Signed and Sworn to before me

December 19, 2008

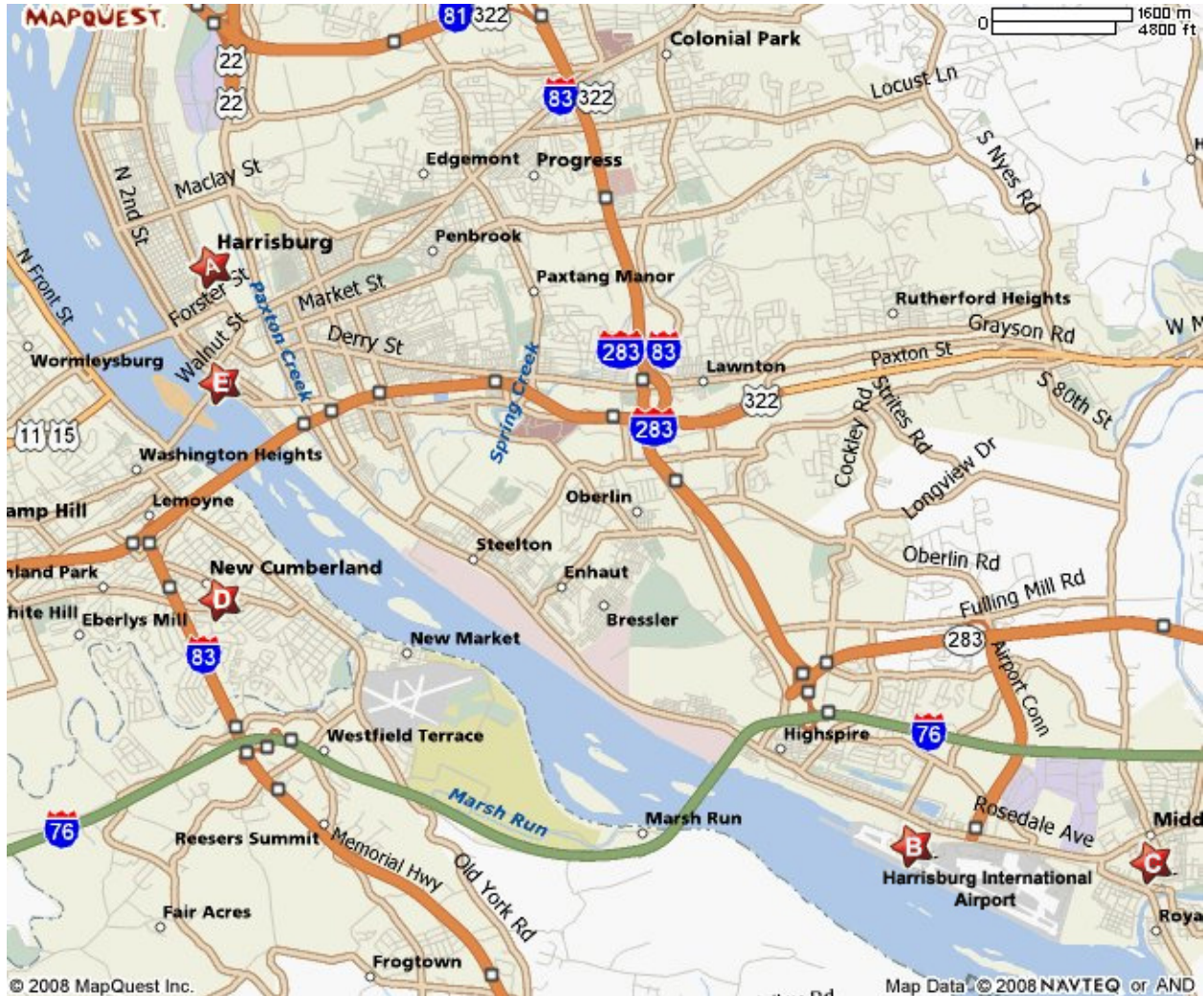
DATE

174

175 *Sara Tympani Smith*

176 Sara Tympani Smith
177 Notary Public, Commonwealth of Pennsylvania
178 My commission expires: **November 27, 2009**

Exhibit 1



LEGEND:

- A: Tiara Plaza Hotel – Harrisburg, Pennsylvania
- B: Plane’s Park and Polish Main Kiosk – Harrisburg International Airport
- C: Plane’s Park and Polish Detailing Facility – Middletown, Pennsylvania
- D: D’Luchiano’s Restaurant – New Cumberland, Pennsylvania
- E: Accident Location

Exhibit 2



Exhibit 3

4367

Plane's

Park & Polish

Customer: Emmanuel Garnetson
Make: PANTHER
Model: YK9
Mileage IN: 23 457.2
Mileage OUT: 23 462.8
Service Level
I // 2 // 3 // (4)

Date IN: 032708
Date OUT: 040108

Return Flight #: DELTA072
Actual Arrival: 040108 15:32
FEE: \$89.79
PAID IN FULL ACCT #: 0117658
RECORD'S RECEIPT

4367

Plane's

Park & Polish

CUSTOMER RECEIPT AND INFORMATION

Customer: Emmanuel Garnetson
Make: PANTHER
Model: YK9
Mileage IN: 23 457.2
Mileage OUT: TBD
Service Level
I // 2 // 3 // (4)

Date IN: TBD
Date OUT: TBD

Return Flight #: DELTA072
Actual Arrival: TBD
FEE: \$89.79
PAID IN FULL ACCT #: 0117658

See reverse for rules and regulations

Exhibit 4



POSITION DESCRIPTION: Valet

GENERAL PARAMETERS: Greet client and determine level of service required. Transport vehicle to long term parking or to detailing/wash and wax facility. Return vehicle to long-term parking location from detailer and place cover. Return car to client at arrival terminal at scheduled arrival time. Collect fee.

Tasks

- Determine level of service required.
- Have clients read contract and sign accordingly.
- Complete the valet ticket and hand bottom half of ticket to customer.
- Enter flight and car information including mileage onto the vehicle log.
- Take car to long-term parking and place storage cover over vehicle insuring its proper application.
- Transport vehicle to the detailing facility located in Middletown, Pennsylvania.
- Retrieve vehicle from detailing facility.
- Return vehicle to client at the arrival terminal at scheduled arrival time.
- Complete end process paperwork.
- Keep parking areas clean and orderly to ensure that space usage is maximized.
- Patrol parking areas in order to prevent vehicle damage and vehicle or property theft.
- Greet customers and open their car doors.
- Inspect vehicles in order to detect any damage.

Exhibit 5

Plane's Park & Polish

PLEASE PRINT ALL INFORMATION
REQUESTED EXCEPT SIGNATURE

APPLICATION FOR EMPLOYMENT

Circle 1

(Valet)

Detailer

Please note that Plane's Park and Polish, LLC is an equal opportunity employer. There will be no discrimination in the application process for any applicant as pertaining to both federal law and the laws and regulations of the Commonwealth of Pennsylvania. Any comments or concerns in this regard are welcomed and should be addressed to the hiring manager and if necessary the appropriate federal or Commonwealth agency charged with overseeing worksite discrimination.

Please answer each and every question to the best of your ability				DATE: October 17, 2007	
Name: BLAKER		REILLY			
<small>Last</small>		<small>First</small>		<small>Middle</small>	
Present address: 600 N. 2nd Street Apt. 2a Harrisburg, Pennsylvania 17101					
<small>Number</small>		<small>Street</small>		<small>City</small>	
				<small>State</small>	
				<small>Zip</small>	
How long: 6 months				Social Security No.: 000 - 00 - 0000	
Telephone: (717) 555-5555					
If under 18, please list age: N/A					
Days/hours available to work: No Pref: All Shifts Mon _____ Tues _____ Wed _____ Thurs _____ Fri _____ Sat _____ Sun _____					
How many hours can you work weekly? 80 Hours Can you work nights? Yes					
Employment desired <input type="checkbox"/> FULL-TIME ONLY <input type="checkbox"/> PART-TIME ONLY <input checked="" type="checkbox"/> FULL- OR PART-TIME					
When available for work? Immediately					
TYPE OF SCHOOL	NAME OF SCHOOL	LOCATION (City, State)	NUMBER OF YEARS COMPLETED	MAJOR & DEGREE	
High School	Capitol City	Harrisburg, PA	Four Years	N/A	
College	Penn State	State College, PA	Four Years	BA Marketing	
Trade School	N/A				
Professional School	N/A				
HAVE YOU EVER BEEN CONVICTED OF A FELONY? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes					
If yes, please explain. On December 23, 2006, I was returning from a company holiday party and I was stopped for erratic driving. I was ultimately arrested for Driving Under the Influence of alcohol and of a Controlled Substance. Even though I was admitted into the PA ARD program and therefore this is not truly a conviction, I feel it is my duty to reveal this unfortunate incident to you at this juncture. As a result of my conviction, I have attended AA and NA meetings and have been consistently in the care of a renowned psychiatrist. I feel I have reconciled myself with my poor judgment and I am ready to move forward in my career. Working for your company will allow me to accomplish this goal. Thank you in advance for your understanding.					
PLEASE PRINT ALL INFORMATION REQUESTED EXCEPT SIGNATURE					

APPLICATION FOR EMPLOYMENT PAGE 2

DO YOU HAVE A DRIVER'S LICENSE? Yes No

What is your means of transportation to work? **Car**

Driver's license number: **2400001** State of issue: **Pennsylvania**

Expiration date: **January 24, 2011**

Have you had any accidents during the past three years? **No**

How many? **N/A**

Have you had any moving violations during the past three years? **Yes**

How Many? **1**

Use the space below to summarize any additional information necessary to describe your full qualifications for the specific position for which you are applying.

Although the position of valet does not require marketing skills and experience on the surface, I feel that my extensive experience and accomplishments as a former marketing manager will prove beneficial. For example, from my research a client of Plane's Park and Polish has to choose between 4 levels of service. I feel that I would be able to encourage client to choose more extensive and therefore profitable levels of service by explaining the virtues of more extensive vehicle interior and exterior protection.

In addition, on a larger scale, I may be able to assist in creating new strategies for reaching and creating a larger client base and therefore a larger market share of the detailing industry. I have led successful nationwide campaigns and remain confident in my ability to do so on a regional level, albeit in a different industry.

PLEASE PRINT ALL INFORMATION REQUESTED EXCEPT SIGNATURE

APPLICATION FOR EMPLOYMENT PAGE 3

MILITARY

HAVE YOU EVER BEEN IN THE ARMED FORCES?

Yes No

ARE YOU NOW A MEMBER OF THE NATIONAL GUARD?

Yes No

Specialty: **N/A**

Date Entered:

Discharge Date:

Work Experience

Please list your work experience for the past five years beginning with your most recent job held. If you were self-employed, give firm name. Attach additional sheets if necessary.

Name of employer
PharmaCom, Inc

Name of last supervisor

Employment dates

Pay or salary

City, State
Harrisburg, Pennsylvania

Simon McDonald
CEO

From: **May 1997**
To: **Dec. 2006**

Start: **\$51,000**
Final: **\$197,000**

Your last job title: **Senior Marketing Director / VP Marketing**

Reason for leaving (be specific): **Terminated for violating company policy regarding controlled substances.**

List the jobs you held, duties performed, skills used or learned, advancements or promotions while you worked at this company.

I held positions of increasing importance in the marketing division for this nationwide Pharmaceutical Company. My duties included the following:

- Developed pricing strategies, balancing firm objectives and customer satisfaction.
- Identified, developed, and evaluated marketing strategy, based on knowledge of established objectives, market characteristics, and cost and markup factors.
- Evaluated the financial aspects of product development, such as budgets, expenditures, research and development appropriations, and return-on-investment and profit-loss projections.
- Formulated, directed and coordinated marketing activities and policies to promote products, working with advertising and promotion managers.
- Directed the hiring, training, and performance evaluations of marketing and sales staff and oversee their daily activities.
- Negotiated contracts with vendors and distributors to manage product distribution, establish distribution networks and develop distribution strategies.
- Consulted with product development personnel on product specifications such as design, color, and packaging.
- Compiled lists describing product.
- Used sales forecasting and strategic planning to ensure the sale and profitability of products, lines, or services, analyzing business developments and monitoring market trends.
- Selected products to be displayed at trade or special production shows.

Ultimately, I held the position of Senior Marketing Director. In this role, I was responsible for a nationwide marketing campaign for the release of the company's first novel pharmaceutical product.

AGREEMENT (PLEASE READ CAREFULLY BEFORE SIGNING)

I certify that all the information on this application is accurate and complete to the best of my knowledge and understand that misleading or false statements will constitute sufficient cause for refusal of hire or termination of my employment.

I understand that neither the acceptance of this application nor the subsequent entry into any type of employment relationship with Plane's Park and Polish creates an actual or implied contract of employment. I understand that, if I accept employment with Plane's Park and Polish, it will be on an at-will basis. This means that either Plane's Park and Polish or I have the right to terminate the employment relationship at any time, for any reason, with or without cause.

I understand that Plane's Park and Polish takes substance abuse very seriously, especially for those holding valet positions. Arriving at work or performing work under the influence of drugs or alcohol is strictly prohibited. Therefore, I understand that as a potential or future employee of Plane's Park and Polish I am subject to a toxicology screening before being hired and could be asked to partake in drug and alcohol testing throughout my tenure with the company. I fully agree to submit to drug and alcohol testing, if requested by Plane's Park and Polish. I release Plane's Park and Polish, and its employees, plus other persons or companies, from any and all liability arising out of or related in any way to such testing.

I authorize Plane's Park and Polish to investigate information concerning my education, employment experiences and all other aspects of my background relevant to my proposed employment. I release Plane's Park and Polish and its employees from all liability arising from such investigation.

Signature of applicant: Reilly Blaker

Date: October 17, 2007

Again, please note that Plane's Park and Polish is an equal employment opportunity employer. We adhere to a policy of making employment decisions without regard to race, color, religion, sex, sexual orientation, national origin, citizenship, age or disability. We assure you that your opportunity for employment with Plane's Park and Polish depends solely on your qualifications.

Exhibit 6

GUEST CHECK		D' LUCHIANO'S	
Server	Table No.	No. Guests	Date
Gerry	14	2	4/18
			562250
1	Chx P w/ spag		17.50
2	Penne Vodka		13.75
3	Calamari side		11.25
4	2 House Salad		10.50
5	Tiramisu		6.50
6	Cannoli		5.75
7			
8			
9	2 Alba Cabernet		64.50
10			
11			
12			
13			
14			
15			
16	Coffee	Tea	Milk
THANK YOU		FOOD	65.25
PAID		BEVERAGE	64.50
Credit		SUB TOTAL	129.75
Plane's		TAX	7.79
Prk Polish		TOTAL	137.54

GUEST RECEIPT		562250
Date	4/18	Amount 137.54

Exhibit 7



 One Terminal Drive, STE 1023 Middletown, PA 17057	DATE <u>April 2, 2008</u>	14437
PAY TO THE ORDER OF <u>Reilly Blaker</u>	<u>\$ 500.00</u>	
<u>Five Hundred Dollars and zero cents XXX</u> , DOLLARS		
 FBPA		
FOR <u>Bonus</u>	<u>Parker Plane</u>	
: 615722094 : 56704390429 : 14437		

Exhibit 8

DATE: 4/18/2008 Time: 20:42:38
Harrisburg Police Department
Automated Law Enforcement Incident Report Complaint #: 08009642

REPORTING DATA

Incident Type	Automobile Accident	Address	Front & Market Street
Reporting Officer	C. BUCHANAN	Badge No.	3054
Time Reported	1525hrs	How Received	Radio
Casualties	Yes	Weapon Used	N/A

VICTIM

Name	Jaya Hansbra	Sex	Female
Address	1297 N. 15th St. Harrisburg, PA 17103	Race	N/A
Marital Status	Unmarried	DOB	11/26/1991
Disposition	Death	AGE	17
Cause	Exsanguination	Occupation	Student / Waitress
Time of Death	15:32 hrs	Employer	Tiara Plaza Hotel
Location of Death	Front and Mkt Sts Harrisburg	Address	Harrisburg, PA
		Survivors Contact	Yes

SUSPECT

Name	Reilly Blaker	Sex	Female/Male
Address	220 N. 2nd St. Apr. 2R Harrisburg, PA 17103	Race	N/A
Marital Status	Single Never Married	DOB	08/14/1974
Disposition	Arrested	AGE	33
Location	Holding Cell #14	Occupation	Valet
Time of Arrest	1903hrs	Employer	Plane's Park & Polish, LLC
Charge	§ 3735 Homicide by vehicle while driving under influence		
Blood Alcohol Level	.08	Address	Middletown, PA
Other Intoxicants	N/A	Toxicology Test	Harrisburg Hospital
Field Sobriety Test	Failed	Time	1613hrs
		Toxicologist	H. Barton

3rd PARTY

Name	Brody Crisdale	Sex	Female/Male
Address	79 Edendale Street, Cleveland Heights, OH 44121	Race	N/A
Marital Status	Married	DOB	03/28/1971
Disposition	Released	AGE	37
Location	N/A	Occupation	Proprietor
Injuries Suffered	N/A	Employer	Self (Maintain Oil Change)
		Address	Cleveland, OH

NARRATIVE

I arrived at the corner of Market and Front Streets after receiving the call from dispatch at approximately 1530hrs on April 18 2008. Lying in the middle of the intersection was the body of the victim, Jaya Hansbra. She had no pulse. We tried to resuscitate and she was rushed to nearby Harrisburg Hospital by ambulance. She was declared dead within minutes of arrival. Cause of death was severed spinal cord and exsanguination (internal bleeding). Hansbra was struck by a BMW operated by Reilly Blaker, registered to Plane's Park and Polish. Vehicle settled in middle of Front Street at intersection with Market, on south side in the pedestrian walk zone. Front fender dented. Several eye witnesses said driver made right turn on red light without stopping, after crossing the Market Street Bridge east bound. Blaker admitted driving the car and failed field sobriety test. I arrested Blaker. Blaker stated s/he was on special business mission for employer that entailed partnership negotiations at local restaurant D'Luchiano's in New Cumberland. Admitted to drinking two glasses of wine. Passenger in BMW Brody Crisdale was examined by trauma unit and released.

I took Blaker to Harrisburg Hospital for toxicology screening which came back positive for a .08 BAC. Blaker invoked right to counsel and that ended questioning. No narcotics or other illegal substances found either in or on Blaker's person. No narcotics in the BMW. Blaker charged with § 3735 Homicide by vehicle while driving under influence.

Signature of Reporting Officer	<i>C Buchanan</i>
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Exhibit 9



MEMORANDUM of UNDERSTANDING

SUBJECT: Employment Terms and Conditions

1. **Purpose.** The purpose of this Memorandum of Understanding (MOU) is to ensure that the Employee, REILLY BLAKER understands and agrees to the terms and conditions of employment with Plane's Park & Polish in the position of VALET.
2. **Scope.** The scope of this MOU is extended to the entire period of time REILLY BLAKER is employed by Plane's Park & Polish in the position of VALET. If REILLY BLAKER is promoted to a new position, a new MOU is required to acknowledge the terms and conditions associated with that employment. Employment with Plane's Park & Polish remains employment at will notwithstanding this MOU. Therefore, if REILLY BLAKER resigns or is terminated this MOU ceases to be applicable.
3. **Acknowledgment.** The undersigned Employee, REILLY BLAKER, acknowledges, that s/he has been provided, has read and understands the duties and limitations associated with the position of VALET as outlined in the position description carrying the same title.
4. **Acknowledgment.** The undersigned Employee, REILLY BLAKER, acknowledges, that s/he has been provided, has read and understands the duties and limitations associated with employment in general at Plane's Park & Polish as outlined in detail in the employee manual.
5. **Acknowledgment.** The undersigned Employee, REILLY BLAKER, acknowledges, that if s/he commits a violation of the terms and conditions outlined in either the employee manual or the position description, it can lead to disciplinary action including but not limited to termination. Actions taken outside those permitted and proscribed by the position description and the employee manual are those made solely by the Employee.
6. **Effective Date.** This MOU is effective from the date signed below by both parties.

EMPLOYEE: REILLY BLAKER

HIRING MANAGER: PARKER PLANE

Reilly Blaker

Parker Plane

October 25, 2007

October 25, 2007

Exhibit 10

PLANE'S PARK & POLISH, LLC
INCOME STATEMENT: QUARTERLY SUMMARY
DATE: April 1, 2008
PERIOD: April 1, 2007 – April 1, 2008

Quarter	Quarter 2 07	Quarter 3 07	Quarter 4 07	Quarter 1 08	TOTALS
SALES & GROSS PROFIT					
Total Sales	\$1 340 439	\$995 190	\$884 745	\$901 002	\$4 121 376
Less Cost of Goods Sold (Materials)	\$50 876	\$48 293	\$43 085	\$44 720	\$186 974
GROSS PROFIT	\$1 289 563	\$946 897	\$841 660	\$856 282	\$3 934 402
OPERATING EXPENSES					
Salaries, Wages, Benefits	\$412 564	\$420 754	\$330 986	\$340 991	\$1 505 295
Overhead (inc. Rent/Insurance/Tax)	\$645 501	\$645 501	\$645 501	\$648 652	\$2 585 155
Advertising	\$35 098	\$25 122	\$10 214	\$0	\$70 434
TOTAL OPERATING EXPENSES	\$1 093 163	\$1 091 377	\$986 701	\$989 643	\$4 160 884
NET INCOME (Loss)	\$196 400	(\$144 480)	(\$145 041)	(\$133 361)	(\$226 482)

Exhibit 11

Section 5.0: EMPLOYEE CONDUCT

The goal of Plane's Park & Polish is to provide the best service possible to our customers while at the same time providing an environment where our employees enjoy and have pride in their work. To accomplish this goal, it is necessary that Plane's Park & Polish establish certain rules. As a condition of employment, you are required to abide by these rules.

5.1 Safety

Your safety is of the utmost importance to Plane's Park & Polish. Therefore, if you feel that you are exposed to a health or safety hazard, inform your supervisor so that appropriate measure can be taken.

5.2 Joyriding

Our customers trust their vehicles in our possession. **Therefore, PP&P absolutely prohibits all employees from taking a customer's vehicle outside the prescribed route for any reason.** Plane's Park & Polish's insurance policy only covers a range of 20 miles from the main airport kiosk. Any travel outside this distance voids the insurance policy. Furthermore, all Plane's Park & Polish customers sign a contract which permits their vehicles to be driven a maximum of five miles. Any mileage logged beyond this range voids the contract. Any employee operating a customer's vehicle outside the proscribed route is acting outside the scope of his/her employment. **Any violation of this section, whether intentional or unintentional, will result in immediate termination.**

5.3 Drug and Alcohol Free Workplace

Unlawful use of any controlled substance and/or consumption of alcohol is strictly prohibited on premises or while conducting any work on behalf of Plane's Park & Polish. It is impermissible to unlawfully use a controlled substance at all other times. You must notify Plane's Park & Polish of any criminal drug or alcohol conviction immediately. Misrepresentation of any criminal drug or alcohol conviction on the employment application is grounds for termination. Any information requested by a law enforcement agency regarding any investigation related to suspected unlawful use of a controlled substance will be provided and you, as a condition of your employment, waive any and all claims that could arise from providing such information. Furthermore, as a condition of your employment, you are subject to toxicology screening before being hired and could be asked to partake in drug and alcohol testing throughout your tenure with the company. Unlawful use of any controlled substance or consumption of alcohol while conducting any work on behalf of the company is grounds for immediate termination.

5.4 Tardiness and Unexcused Absences

Tardiness and unexcused absences are impermissible and subject to disciplinary action, including but not limited to docked pay and shifts. Excessive and repeated violations of this policy will result in termination.

5.5 Unauthorized Use of Company Car

A company car is kept on the premises of each location for the sole and exclusive use of Parker Plane, President, Plane's Park & Polish. Employees are not permitted to use the company car without express approval in writing from Parker Plane. If permission is granted, such written authorization will be kept and maintained in the employee's personnel file.

5.6 Unauthorized Use of Company Credit Card

Unauthorized use of the company credit card is strictly prohibited. All facility managers are provided individualized company credit cards in order to purchase supplies on an as-needed basis from designated vendors. All employees permitted to use the company credit account will have a written authorization certificate indicating the scope of this permission, which authorization shall be maintained in said employees personnel file. Any violation of this policy is subject to disciplinary action.

5.7 Sexual Harassment

No employee of Plane's Park & Polish shall engage in sexual harassment, which includes but is not limited to: engaging in verbal or non-verbal conduct with an inappropriate focus on gender or sexual history, characteristics, or preferences that is intimidating, demeaning, hostile, or offensive; perpetrating unwelcome verbal or physical advances; subjecting, or attempting to subject, a person to unwanted sexual attention; or coercing or attempting to coerce a person into a sexual relationship.

Any employee who experiences harassment, or is aware of such conduct, should report such conduct immediately as outlined below. It is unlawful to retaliate against an employee, or take any adverse actions against said employee, for filing a complaint of sexual harassment.

A violation of the sexual harassment policy can lead to disciplinary action, up to and including termination.

A complaint relating to sexual harassment may be filed with the Affirmative Action Coordinator/Compliance Officer or with the facility manager. The complaint must be filed within 180 days of the most recent act. A thorough investigation will be conducted and appropriate action taken.

Exhibit 12

Plane's Park & Polish  *While you fly
we wash and dry!*

Philadelphia Harrisburg Pittsburgh

Parker Plane
President

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