

2015 Delaware High School Mock Trial Competition



***First State Liability Insurance Company, Inc. v.
Denim N' More, Inc.***

*Adapted from 2012 Tennessee High School Mock Trial Case authored by the
Tennessee Bar Association Mock Trial Committee*

February 27-28, 2015
New Castle County Courthouse

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TABLE OF CONTENTS

CASE SUMMARY.....3

COMPLAINT5

ANSWER.....9

STIPULATIONS12

JURY INSTRUCTIONS.....15

WITNESS STATEMENTS19

WITNESSES FOR THE PLAINTIFF19

 Statement of Noel E.R. Donovan.....20

 Statement of Andy Burns.....24

 Statement of Yagmur Merteuil28

WITNESSES FOR DEFENSE33

 Statement of Jesse E. Stewart34

 Statement of Stacy Summers41

 Statement of Jamie Whineshack44

EXHIBITS49

CASE SUMMARY¹

Jesse Stewart is the founder and sole shareholder of Denim N' More, Inc., located in the city of Wilmington, New Castle County, Delaware. Denim N' More, which employed approximately 150 people in its heyday, was a textile manufacturer. Specifically, Denim N' More produced customized denim shirts and hats for other businesses (specifically utility companies and janitorial services providers) to use for employee uniforms and marketing opportunities.

Today, in light of recent economic trends, and a shrinking industrial work force in the area around Wilmington, Delaware, Denim N' More has been forced to reduce its workforce by approximately one-third. Despite the economic downturn, however, Stewart is confident in the future of Denim N' More, either as an independent regional corporation, or as a subsidiary of a larger textile manufacturer. However, Stewart is aware that for the immediate survival and continuance of operations, an influx of working capital is absolutely necessary.

Late on the evening of Friday, June 14, 2013, the Wilmington, Delaware Fire Department received a report of smoke coming from Denim N' More. On further investigation, fire crews discovered that a substantial portion of Denim N' More was ablaze. Particularly, the rear portion of the building used to house raw materials was violently burning. The fire, the largest in New Castle County's history, raged for nearly 13 hours. Over 50 firefighters worked throughout the night to bring it under control.

Stewart arrived at the scene from out-of-state without being contacted by the authorities. He claims to have been notified by his assistant of the fire before 10:45 p.m.

The next morning, investigators employed by both the Delaware State Fire Police and First State Liability Insurance Company, Inc. ("First State") arrived at the scene. First State, which carried Denim N' More's insurance, was particularly concerned about the fire's origins. This suspicion was further heightened when First State learned that Denim N' More's fire alarm system, although recently inspected, failed to function properly. After studying the scene and undertaking various chemical analyses, First State's investigators concluded that the Denim N' More fire was intentionally set. As a portion of their extensive investigation, First State obtained recorded statements from several individuals.

Despite the findings of First State's investigation, the Delaware State Fire Police was not able to come to any formal conclusion as to the reason for the fire. Currently, this case is classified as a fire of inconclusive origin and there is no on-going investigation.

The month after the Denim N' More fire, First State issued a formal denial of Denim N' More's claim for insurance coverage. In its denial, First State relied on the insurance policy's

¹ This case summary is meant to quickly acquaint participants with the 2014 problem. It is **not** evidence, nor does it represent a statement by any of the characters/witnesses. It **shall not** be used for any purpose during the competition.

language regarding intentional losses. Immediately after denying the claim, First State filed a declaratory action in the New Castle County Superior Court, seeking a ruling that Denim N' More is not entitled to the proceeds from the insurance contract due to a violation of the contract's intentional conduct exclusion provision. Denim N' More, of course, will argue that because Stewart did not intentionally cause Denim N' More's fire, it did not breach the contract, and it is thus entitled to recover for its losses of \$950,000.

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

FIRST STATE LIABILITY INSURANCE)	
COMPANY, INC.,)	
a Delaware corporation,)	
)	C.A. No.: N14C-06-123 (ALR)
Plaintiff,)	
)	TRIAL BY JURY OF TWELVE
v.)	DEMANDED
)	
DENIM N’ MORE, INC., a Delaware)	
corporation,)	
)	
Defendant.)	

COMPLAINT FOR DECLARATORY JUDGMENT

Introduction

1. Plaintiff First State Liability Insurance Company, Inc. (“First State”) seeks a declaratory judgment that there is no coverage under the insurance policy bearing the policy number PR01601111 (the “Policy”) for the property losses Denim N’ More, Inc. (“Denim N’ More”) suffered in the fire on or about June 14, 2013 at its premises at 1001 Jeans Ave., Wilmington, DE (“Premises”). Coverage is excluded under the Policy because the fire was intentionally set by the owner of Denim N’ More, Jesse Stewart (“Stewart”).

Parties and Key Non-Parties

2. Denim N’ More is a corporation formed under the laws of Delaware. Denim N’ More operated in Wilmington, Delaware. Denim N’ More, which once employed approximately 150 people at the height of its business, was a textile manufacturer.

3. Specifically, Denim N’ More produced customized denim shirts and hats for other businesses (specifically utility companies and janitorial services providers) to use for employee uniforms and marketing opportunities around Wilmington, Delaware. Today, in light of recent

economic trends, and a shrinking industrial work force in the area Denim N' More has been forced to reduce its workforce by approximately one-third.

4. Jesse Stewart is the founder and sole shareholder of Denim N' More, Inc.

5. First State is a corporation formed under the laws of Delaware. First State offers a variety of insurance productions, including commercial property coverage policies.

6. The Policy provided commercial property coverage to Denim N' More for the Premises.

Facts

7. Late on the evening of Friday, June 14, 2013, the Wilmington, Delaware Fire Department received a report of smoke coming from the Premises. On further investigation, fire crews discovered that a substantial portion of the Premises was ablaze. Particularly, the rear portion of the building used to house raw materials was violently burning.

8. The fire, the largest in New Castle County's history, raged for nearly 13 hours. Over 50 firefighters worked throughout the night to bring it under control.

9. Stewart arrived at the Pemises during the fire despite claiming to have been out of state and despite the fact that the authorities had not yet contacted him. He claims that he was contacted by his assistant.

10. The next morning, investigators employed by both the Delaware State Fire Police and First State arrived at the scene.

11. First State, which carried Denim N' More's insurance, was particularly concerned about the fire's origins. This suspicion was further heightened when First State learned that Denim N' More's fire alarm system, although recently inspected, failed to function properly. It

had been turned off. After studying the scene and undertaking various chemical analyses, First State's investigators concluded that the Denim N' More fire was intentionally set.

12. As a portion of their extensive investigation, First State obtained recorded statements from several individuals.

13. Prior to the fire, Denim N' More was struggling financially. This motivated Stewart to start the fire so as to recover the insurance proceeds.

14. Although Mr. Stewart was out of town at the time the blaze was discovered, he either caused the fire prior to leaving town or instructed one or more of his employees to start the fire.

15. On information and belief, Mr. Stewart or one of his employees intentionally disabled the fire alarm system.

16. Based on its investigation, including a review of the evidence and the interviews, First State concluded the fire was set by or at the direction of Stewart.

17. Currently, the Delaware State Fire Police has not been able to come to any formal conclusion as to the reason for the fire. It classifies the case as a fire of inconclusive origin and there is no on-going investigation.

18. Following the fire, Denim N' More requested coverage under the Policy for the damage Denim N' More suffered to its property in the fire.

19. But for Denim N' More's act of arson, First State admits there would be coverage under the Policy for up to \$1,000,000 in losses to Denim N' More caused by the fire.

20. The month after the Denim N' More fire, First State issued a formal denial of Stewart's claims. In its denial, First State relied on the insurance policy's language regarding intentional losses.

21. Specifically, the intentional act exclusion in the “Exclusions” section of the Policy provides:

First State will not pay for loss or damage arising out of any act an insured commits or conspires to commit with the intent to cause a loss.

COUNT I
(Declaratory Judgment)

22. First State incorporates by reference all earlier paragraphs of this Complaint as if fully set forth herein.

23. Following the fire of June 14, 2013, Denim N’ More requested coverage under the Policy for the losses it suffered from the fire.

24. First State denied the claim for coverage.

25. Pursuant to the Exclusions provision of the Policy, there is no coverage because Stewart or someone at his direction intentionally caused the fire with the intent to cause damage to Denim N’ More’s property at the Premises. Accordingly, First State is not obligated to cover the loss.

WHEREFORE, First State respectfully prays for:

- a. A declaration that there is no coverage for Denim N’ More for property damage from the fire on or about June 14, 2013;
- b. Such other and further relief as the Court may deem appropriate.

/s/ Attorney
Attorney (Bar #10,000)
Attorney for First State
Liability Insurance Company

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

FIRST STATE LIABILITY INSURANCE)	
COMPANY, INC.,)	
a Delaware corporation,)	
)	C.A. No.: N14C-06-123 (ALR)
Plaintiff,)	
)	TRIAL BY JURY OF TWELVE
v.)	DEMANDED
)	
DENIM N’ MORE, INC., a Delaware)	
corporation,)	
)	
Defendant.)	

ANSWER TO COMPLAINT

Defendant Denim N’ More, Inc. (“Denim N’ More”) for its answer and additional defenses states as follows:

Nature of Case

1. Denim N’ More, admits that First State Liability Insurance Company, Inc. (“First State”) purports to seek a declaratory judgment that there is no coverage under the insurance policy bearing the policy number PR01601111 (the “Policy”) for the losses Denim N’ More suffered to its property in the fire of June 14, 2013 at its building in Wilmington, DE (“Premises”) The remaining allegations of this paragraph are denied.

Parties and Key Non-Parties

- 2. Admitted.
- 3. The first sentence of this paragraph is admitted. The second sentence is denied.
- 4. Admitted.

5. The first sentence is admitted. Denim N' More lacks sufficient information to either admit or deny the remaining allegations of this paragraph, except that it admits that First State provided property insurance coverage to Denim N' More.

6. Admitted.

Facts

7. Admitted.

8. Denim N' More admits the fire lasted for nearly 13 hours. Denim N' More lacks sufficient information to either admit or deny the remaining allegations of this paragraph.

9. It is admitted that Stewart's assistant contacted Stewart shortly before 10:45 p.m. the evening of June 14, 2013 to notify him of the fire. It is further admitted that Stewart then traveled from his Pennsylvania home to the premises. Defendant lacks sufficient information to admit or deny the claim that authorities had not yet attempted to contact Stewart, though it is admitted that Stewart did not have conversations with the authorities until arriving at the Premises.

10. Admitted.

11. Denim N' More admits that its fire alarm system had been inspected and that it failed to function properly during the fire. The remaining allegations of this paragraph are denied.

12. Admitted.

13. Denied.

14. Denied.

15. Denied.

16. Denim N' More admits that this paragraph purports to state First State's conclusion. Denim N' More denies that First State's conclusion is accurate.

17. Admitted.

18. Admitted.

19. Denim N' More denies committing an act of arson or otherwise intentionally causing the fire on or about June 14, 2013. The remainder of this paragraph is admitted.

20. Admitted.

21. Admitted.

COUNT I
(Declaratory Judgment)

22. Denim N' More incorporates by reference all earlier paragraphs of this Answer as if fully set forth herein.

23. Admitted.

24. Admitted.

25. Denied.

ADDITIONAL DEFENSES

First Additional Defense

26. The Complaint fails to state a claim upon which relief may be granted.

WHEREFORE, Defendant prays for:

- a. A denial of declaratory judgment requested by Plaintiff; and
- b. Such other relief as the Court deems appropriate.

/s/ Attorney
Attorney (Bar #11,000)
Attorney for Denim N' More, Inc.

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
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a Delaware corporation,)	
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Plaintiff,)	
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DENIM N’ MORE, INC., a Delaware)	
corporation,)	
)	
Defendant.)	

STIPULATIONS

1. Plaintiff First State Liability Insurance Company, Inc. (“Plaintiff”) is a corporation organized under the laws of Delaware, and doing business, at all relevant times to this litigation, in Delaware.
2. Defendant Denim N’ More, Inc. (“Defendant”) is a corporation organized under the laws of Delaware, and doing business, at all relevant times to this litigation, at 1001 Jeans Ave., Wilmington Delaware (the “Premises”).
3. The Plaintiff filed civil suit against the Defendant in the Delaware Superior Court in and for New Castle County in August 2013 seeking declaratory judgment under the insurance policy that is held by the Defendant. Plaintiff claims that the Defendant intentionally set fire to its facility, therefore absolving the Plaintiff of responsibility for payment under the insurance contract for the losses Defendant suffered in the fire at the Premises on June 14-15, 2013.

4. At the time of the fire, Plaintiff insured Defendant for losses to Defendant's property pursuant to insurance policy number PR01601111 (the "Policy").
5. The parties stipulate that the Policy is a properly formed contract.
6. J. Stewart Properties, an entity owned by Jesse Stewart, rented the building at 1001 Jeans Ave., Wilmington, Delaware to Denim N' More. Denim N' More owned property within the building.
7. The Policy contemplates and covers loss to Denim N' More's property at the Premises caused by an unintentionally set fire.
8. First State concedes that the damage to Denim N' More's property was caused by the fire of June 14-15, 2013, and that there is coverage for the losses Denim N' More suffered in the fire if an exclusion under the Policy does not bar coverage.
9. One of the exclusions in the Policy provides: "First State will not pay for loss or damage arising out of any act an insured commits or conspires to commit with the intent to cause a loss."
10. Pursuant to the Policy, for the Defendant to have intentionally caused the fire, it must have been intentionally started by Jesse Stewart or by another at Jesse Stewart's direction. The parties agree that an employee intentionally starting the fire not at the direction of Jesse Stewart does not qualify under the exclusion.
11. The parties agree that Denim N' More's property loss from the fire totals \$950,000.
12. Whenever a rule of evidence requires reasonable notice, the teams must presume that such notice has been given.
13. All witness statements were given under oath. For the avoidance of doubt, this does not include Exhibit D.

14. All exhibits included in this problem are authentic and accurate in all respects (and are what they are identified to be on the face of the document). No objections as to the authenticity of the exhibits may be made.
- a. Noel E.R. Donovan has knowledge of AAA CPA's Appraisal Report, and reviewed it in forming his/her opinion of the valuation.
 - b. Andy Burns has knowledge of his *curriculum vitae* and prepared his Origin & Cause Report.
 - c. Jesse Stewart has knowledge of the Denim N' More Complex Diagram and can attest to its accurateness.
 - d. Stacy Summers and Jesse Stewart have knowledge of the Star Jeweler's receipt and both can identify the handwriting on the receipt as Jesse Stewart's.
 - e. Jamie Whineshack and Jesse Stewart have knowledge of Jamie Whineshack's employment record.
 - f. Jamie Whineshack pled guilty to Forgery Second Degree (11 *Del. C.* § 861), a Class G felony, in 2008 and was placed on probation for 18 months.
 - g. Jesse Stewart pled guilty to one felony count of insider trading in 1992.
15. Participants may only cite evidence contained herein. Cross-reference to other mock trial problems is prohibited. Any similarity to true events or persons is unintentional. Parties may not cite legal or factual authority outside that presented in the problem, the Rules of the Competition, and the Delaware Mock Trial Rules of Evidence.
16. Stipulations may not be contradicted or challenged. However, it shall be the responsibility of the teams to bring the stipulations to the attention of the Court as the situation requires.

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
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Plaintiff,)	
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DENIM N' MORE, INC., a Delaware)	
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)	
Defendant.)	

JURY INSTRUCTIONS

NATURE OF THE CASE

In this case, the insurance company, First State Liability Insurance Company, Inc. has brought a action against the policyholder, Denim N' More, Inc. seeking a judgment from the Superior Court that it is not responsible for making any payments under the insurance policy for damages Denim N' More suffered to its property at 1001 Jeans Ave., Wilmington, Delaware (hereinafter the "Premises") in a fire on o June 14-15, 2013. First State claims that Denim N' More's losses from the fire are excluded from coverage because the owner of Denim N' More, Jesse Stewart, intentionally caused the fire.

EVIDENCE: DIRECT, INDIRECT OR CIRCUMSTANTIAL

Generally speaking, there are two types of evidence from which a jury may properly find the facts. One is direct evidence -- such as the testimony of an eyewitness. The other is indirect or circumstantial evidence -- circumstances pointing to certain facts. For example, if a witness testified that the witness saw it raining outside, that would be direct evidence that it was raining. If a witness testified that the witness saw someone enter a room wearing a raincoat covered with drops of

water and carrying a wet umbrella, that would be circumstantial evidence from which you could conclude that it was raining.

As a general rule, the law makes no distinction between direct and circumstantial evidence, but simply requires that the jury find the facts from all the evidence in the case: both direct and circumstantial.

BURDEN OF PROOF BY A PREPONDERANCE OF THE EVIDENCE

In a civil case such as this one, the burden of proof is by a preponderance of the evidence. Proof by a preponderance of the evidence means proof that something is more likely than not. It means that certain evidence, when compared to the evidence opposed to it, has the more convincing force and makes you believe that something is more likely true than not. Preponderance of the evidence does not depend on the number of witnesses. If the evidence on any particular point is evenly balanced, the party having the burden of proof has not proved that point by a preponderance of the evidence, and you must find against the party on that point.

In deciding whether any fact has been proved by a preponderance of the evidence, you may, unless the Court tells you otherwise, consider the testimony of all witnesses regardless of who called them, and all exhibits received into evidence regardless of who produced them.

POLICY EXCLUSIONS

First State has admitted that there is coverage under the insurance policy unless an exclusion applies. It is First State's burden to prove by a preponderance of the evidence that a policy exclusion has been triggered and that coverage is excluded.

INTENTIONAL CONDUCT EXCLUSION

First State argues that Denim N' More should be denied coverage from the fire based on the intentional acts exclusion of the insurance policy. To prevail, State From must prove each of the following by a preponderance of the evidence:

- (a) Jesse Stewart, or someone acting at Jesse Stewart's direction, committed an intentional act;

(b) Jesse Stewart, or someone acting at Jesse Stewart's direction, intended to cause some injury or damage to Denim N' More's property at the Premises, even if not the specific injury or damage that was caused; and

(c) Jesse Stewart, or someone acting at Jesse Stewart's direction, actually caused the intended damage to property at the Premises or damage to property at the Premises that was reasonably foreseeable.

CREDIBILITY OF WITNESSES

You are the sole judges of each witness's credibility. That includes the parties. You should consider each witness's means of knowledge; strength of memory; opportunity to observe; how reasonable or unreasonable the testimony is; whether it is consistent or inconsistent; whether it has been contradicted; the witnesses' biases, prejudices, or interests; the witnesses' manner or demeanor on the witness stand; and all circumstances that, according to the evidence, could affect the credibility of the testimony.

If you find the testimony to be contradictory, you may try to reconcile it, if reasonably possible, so as to make one harmonious story of it all. But if you can't do this, then it is your duty and privilege to believe the testimony that, in your judgment, is most believable and disregard any testimony that, in your judgment, is not believable.

WITNESS'S CONVICTION OF A CRIME

You may consider evidence that a witness was previously convicted of a felony or a crime involving dishonesty for the sole purpose of judging that witness's credibility or believability. Evidence of a prior conviction does not necessarily destroy or damage the witness's credibility, and it does not mean that the witness has testified falsely. It is simply one of the circumstances that you may consider in weighing the testimony of such a witness.

EXPERT TESTIMONY

Expert testimony is testimony from a person who has a special skill or knowledge in some science, profession, or business. This skill or knowledge is not common to the average person but has been acquired by the expert through special study or experience.

In weighing expert testimony, you may consider the expert's qualifications, the reasons for the expert's opinions, and the reliability of the information supporting the expert's opinions, as well as the factors I have previously mentioned for weighing the testimony of any other witness.

Expert testimony should receive whatever weight and credit you think appropriate, given all the other evidence in the case.

**WITNESSES FOR PLAINTIFF FIRST STATE
LIABILITY INSURANCE COMPANY, INC.**

1 **●NOEL E.R. DONOVAN●**

2 My name is Noel E. R. Donovan. I am a Certified Public Accountant (CPA) and a
3 member of the American Society of Appraisers (ASA). While I am not an accredited member of
4 the Business Valuation Section of the ASA, I am fully authorized to conduct business valuations,
5 and I do so as a regular part of my business.

6 I generally conduct business valuations for persons who are undergoing a divorce and
7 need a value established for purposes of splitting marital property. For example, if I value the
8 business of one spouse at \$1.2 million, the court will consider that value as assets. Since you
9 can't actually divide the business, the court will usually look to even up the distribution of assets
10 by, for example, giving the other spouse the house and cash accounts.

11 I spend a lot of time valuing professional services businesses, such as those owned by
12 doctors, lawyers, and real estate agents. Usually, these businesses derive the bulk of their value
13 from goodwill and are expected to continue in operation after the divorce as before, with no
14 change in the persons who are running the business or the services that are being offered.

15 First State Liability Insurance Company retained me to review the financial report and
16 appraisal that was prepared for Denim N' More by AAA CPA. I receive a flat fee of \$1000 to
17 review an appraisal. If I am subsequently engaged to testify, I am compensated at the rate of
18 \$250 per hour plus expenses.

19 I reviewed the AAA CPA report, and I undertook additional research, including
20 surveying the local and regional economic reports, as well as any available data on comparable
21 transactions in the textile industry. Since the AAA CPA report assumed a cash accounting basis,
22 I did the same, although it is true that Denim N' More used an accrual accounting basis. My

1 figures for valuing the business could have been higher because I would have included the full
2 value of any unpaid accounts.

3 My review of the AAA CPA appraisal leads me to believe that it is largely unreliable as it
4 overstates the value of the business as an ongoing concern. It does not acknowledge the age of
5 the accounts receivable. It does not examine the regional or national economies. Additionally,
6 the report was simply based upon information provided by Jesse Stewart to AAA CPA. Given
7 that Jesse Stewart has been investigated for arson, I would imagine that the facts Stewart
8 provided to AAA CPA were likely tilted in Stewart's favor. Finally, the report does not take into
9 consideration the fact that corporate orders for textiles such as uniforms have been falling
10 precipitously during the last nine quarters. In my opinion, Denim N' More was losing money,
11 and practically the only demonstrable value in the business was the value of the real estate upon
12 which the factory sat.

13 Regarding the accounts receivable, the AAA CPA report stated that Denim N' More was
14 owed \$250,000 by its biggest customer, Janitors Iz Us. However, as of today, that company is in
15 bankruptcy proceedings. So, in order to collect any of that money, Denim N' More would likely
16 have to engage counsel and file its claim as a creditor in the bankruptcy litigation. I am not a
17 lawyer, but I would imagine that filing such a claim is very expensive and that Denim N' More
18 probably wouldn't be able to get any money out of it.

19 While the bankruptcy took place after the fire that destroyed the Denim N' More Factory,
20 the Janitors Iz Us account was past due over 250 days before the fire. As the age of an Account
21 Receivable goes up, it becomes less likely that the account will actually be recoverable.
22 Accordingly, the value of the Janitors Iz Us account receivable should have been adjusted
23 downward, perhaps as low as 60 cents on the dollar.

1 I am also concerned about the level of debt as indicated by the AAA CPA report. The
2 debt amount listed certainly seems reasonable for a textile manufacture with a long production
3 history and good relationships with its suppliers and clients. (Of course, since only the monthly
4 debt service amount was presented, I am forced to guess at the total debt load). However, the
5 debt is listed as belonging to Denim N' More/Jesse Stewart. This is not standard notation in a
6 professional valuation report.

7 I can only assume this notation means that Jesse Stewart was operating as a sole
8 proprietor and that the debt of the company was actually personal debt. If Jesse Stewart had
9 other personal debts (and most persons have individual debt), then it is likely that those debts,
10 while unrelated to the business, could negatively impact the business's cash flow. My opinion
11 could be changed on this, however, if it could be demonstrated that Jesse Stewart was merely a
12 guarantor for the debt of Denim N' More.

13 My review of local and regional economic reports demonstrates that domestic
14 corporations are simply no longer ordering uniforms for their employees. Total corporate textile
15 orders have fallen 75 percent over nine quarters, and the forecast is that orders will remain flat
16 for at least the next year. It is my understanding that this is a cost-saving measure and that
17 companies are now requiring employees to adhere to less stringent dress requirements. For
18 example, where in the past a janitor might be outfitted with company-issue denim shirt, work
19 pants, and hat, now companies simply require a polo in a solid color. Given that Denim N'
20 More manufactured primarily for corporate clients, it is unlikely that its past revenue could be
21 considered to be a reasonable basis for projecting future revenue, unless the business was
22 retooled somehow. This would be possible given that the manufacturing equipment is practically

1 new, so reprogramming some manufacturing functions would likely not be terribly time-
2 consuming.

3 Goodwill should not have been considered at all in the calculation of the company's
4 value. Goodwill matters heavily in service-based industries, but textile manufacturers are largely
5 fungible. Thus, the determination of value attributed to Goodwill was improper.

6 The report also has other methodological errors. While professional standards provide
7 appraisers with some leeway in determining which valuation methods to use and how to weigh
8 those calculations, it is customary to notate the percentage weight afforded to each calculation.
9 The report doesn't do that, however, and thus the reader is left to guess at how the final appraisal
10 value was reached.

11 To sum, it simply does not seem as if there is enough total information to inform the
12 AAA CPA report, and I cannot tell how AAA CPA weighted the information it used in order to
13 come up with its valuation number. Moreover, without independent verification of the
14 information referenced in the report, the value can hardly be more than speculative at best.
15 While the scope of my engagement is merely to analyze the existing report and not value the
16 business myself, based upon the report and my own research, I find it hard to believe there is any
17 value in the business. The value was in the building and tangible assets destroyed by the fire.

1 ●ANDY BURNS ●

2 My name is Andy Burns. I am a Certified Fire and Explosion Investigator, a Certified
3 Hazardous Materials Technician, a Certified Fire Fighter, and I hold and maintain a State of
4 Delaware Private Investigator License.

5 As my CV details, I am interested and educated in all things fire. I started my career in
6 the United States Air Force, where I was trained in Hazardous Materials programs, and where I
7 worked in fire suppression for four years. I also became a fire fighter, certified by the United
8 States Department of Defense. Talk about a proud day! After an honorable discharge from the
9 military, I decided it was time to head back home to Delaware. I enrolled in Downstate
10 Community College and received my Associate Degree in Fire Science in 1999. I was then
11 certified by the Delaware State Fire Commission as a fire fighter, and I began working for the
12 Wilmington, Delaware Fire Department in 2000. Throughout my career with Wilmington, I have
13 taken numerous training courses (even taught a few) and achieved many certifications, including
14 Modern Techniques of Arson Investigation. In fact, I've taken that course annually since 2003.
15 Although I love working as a fire fighter for Wilmington, at the urging of my supervisors, I
16 decided to open my own fire investigation firm in 2002, right before I earned my Bachelor's
17 Degree in Fire Science Technology from the Blue Gold University. See, my supervisors noticed
18 that I had a knack for determining causes and origins of fires, and thought that having my own
19 firm would not only help me earn some extra money, but also help me be a better fire fighter.
20 Winning all the way around!

21 Since 2002, Fires By Burns Investigations has investigated nearly 100 fire scenes. For
22 lots of these, I've ended up testifying in court about my findings. Each time, I've been deemed
23 an "expert witness." Still makes me feel fancy, no matter how many times it happens. I'm even a

1 member of the International Association of Cause and Origin Experts and the International
2 Association of Arson Investigators.

3 Anyway, I got a call on June 15, 2013 from First State Liability Insurance Company to go
4 check out a scene at the Denim N' More clothing factory at 1001 Jeans Avenue in Wilmington,
5 Delaware. Once I got there the next morning, I was met by Investigator Michael Johnson, who is
6 the lead investigator for the Delaware State Fire Police and Yağmur Merteuil, the staff
7 investigator for First State. Investigator Johnson told me that at approximately 10:20 p.m. the
8 evening before, the Wilmington Fire Department had gotten a call that smoke was coming from
9 the factory. The fire department arrived at 10:30 that evening, and battled the blaze for over 13
10 hours! Investigator Johnson and Merteuil and I met with Captain Tom Anderson of the
11 Wilmington Fire Department, and he told us that when his crew arrived, the rear portion of the
12 building was completely engulfed in flames. I knew right away that something was up, because
13 with the weather being as nice as it was that night, a fire doesn't normally just burn for that long
14 without some kind of booster, if you know what I mean. Plus, I'd worked with Mike and Tom
15 for years, and I knew that 13 hours was a long time to be working on a blaze for a building that
16 size. I mean, unless they're slowing down in their old age, it shouldn't take them that long to put
17 out a fire. So, that already led me to believe that someone had intentionally burned the place
18 down. I admire Mike and Tom a lot, and I'd hate to think that a run of the mill cigarette ignition
19 could take so much of their time.

20 So I began my investigation of the building, which was irregularly shaped and kind of
21 long. I knew that the business makes jeans and other clothing, which is important to keep in
22 mind when you're considering what things are going to be burning inside. I began at the main
23 entrance on the south side of the building. Immediately, I could tell that there was smoke damage

1 everywhere. The building was made out of wood and concrete cinder blocks, and everything was
2 covered in soot. I moved west and noticed more smoke damage. On the west side was where the
3 furnace was. It was intact, but also covered in soot from the smoke.

4 I then crossed over to the east side of the building – or what was left of it. It was
5 completely destroyed. From my investigation, and from talking to the owner of the building,
6 Jesse Stewart, I discovered that this section was used to house raw materials for textile
7 production. Of course, cotton and other textiles are flammable, but on their own, shouldn't have
8 caused a fire to burn so long.

9 I noticed, obviously, that the lowest and deepest charring had occurred in this area. I
10 examined the floor for burn patterns. I immediately noticed a “puddling” effect, which indicated
11 the fire's origin. I would have expected to also find V-shaped burn patterns on the floor, which
12 would indicate the origin of the fire, and which is usually consistent with arson. I didn't find any
13 such patterns, but this does not rule out arson, as the long burn time in this fire could have
14 destroyed those patterns. I also took scrape samples of the concrete floor, which had flaked.
15 Flaking concrete is an indicator of the presence of burning ignitable liquids. The labs came back
16 and showed acetone. While I am aware that acetone can be used as a solvent in the process of
17 textile manufacturing, because of its flammability, acetone is not usually stored with raw
18 materials.

19 I think the most notable thing I noticed during my investigation was not so much the
20 charred room. I've seen those hundreds of times, of course. But as with all investigations, I
21 looked to see if there was a smoke alarm/detector system. There was. But that's not the weird
22 thing. The weird thing is that it wasn't functioning, and hadn't functioned at the time of the fire.

1 The Wilmington Fire Department had done routine checks on it since its installation back in
2 2001, and it was always found to be functioning. In fact, it had been manually turned off.

3 The overwhelming physical evidence, along with the fact that the fire alarm had been
4 disabled, led me to my conclusion that this fire was NOT accidental. I know that the
5 Wilmington Fire Department wasn't able to reach a conclusion regarding how the fire was set,
6 but, hey, they don't have me working for them anymore!

1 ●YAGMUR MERTEUIL●

2 My name is Yağmur Merteuil and I am an Investigator with First State Liability
3 Insurance Company. I have been employed with First State for approximately five years. I have
4 been working as an investigator in their Fire Loss Division for approximately 18 months. Prior
5 to working in the Fire Loss Division, I primarily worked on cases involving disputes over life
6 insurance policies. I love the opportunity to investigate situations to determine what “really”
7 occurred. And, under my watch, we reduced the number of life insurance payouts by 31 percent
8 in the northeast district, including Delaware, Pennsylvania, and New Jersey.

9 Upon transferring to the Fire Loss Division, I took a six-week training course, which
10 introduced me to the techniques that investigators use to determine the cause and nature of the
11 fire. To be clear, I am not a cause or origin expert; however, I use many of the scientific skills,
12 in conjunction with my fact investigation, to make findings of fact, which are then submitted to
13 my employer for consideration.

14 While I excel at my job, I never imagined that I would be involved in something as
15 plebeian as investigating cases involving suspected arson during my studies.

16 Growing up, I spent time with my mother in Istanbul, and summered with my father in
17 the Picardie region of France. I studied theology and nonsecular art of the late medieval period
18 at Collège de Sorbonne. I dreamed of working in one of the great museums dedicated to man’s
19 devotion to religion. During the second summer of my university experience, I interned for PDT
20 Art Insurance Company in the UK. I had the opportunity to work on cases involving
21 international intrigue and fine art. I was successful in my internship, and believed that as an
22 investigator for a high-end art insurance company, I would satisfy my desire for travel and

1 excitement, while allowing me to work with my life's passion, art. Love brought me to New
2 Jersey, while, unfortunately; heartbreak and a weak international economy have kept me here.

3 I have been involved with this case from the beginning. The fire occurred at Denim N'
4 More during the late evening of June 14, 2013. The claim for insurance benefits came in the
5 morning of June 15th from the company's owner, Jesse Stewart, who sought \$950,000 on behalf
6 of Denim N' More. At that time, the Delaware State Fire Police was investigating the cause of
7 the fire, which ultimately was deemed inconclusive. But because of the on-going investigation
8 by law enforcement and the relatively large size of the claim, my supervisors asked that I travel
9 to Wilmington to make a determination as to the cause of the fire and whether First State should
10 pay the policy.

11 When I arrived at the scene, there was still visible smoldering occurring at the part of the
12 factory where, I learned, raw materials were housed. During my initial tour of the facility,
13 Stewart's assistant Stacy Summers gave me a lay of the land. As I learned, the warehouse area
14 of the complex where raw materials are stored also serves as a "catch all" storage area for other
15 materials, including some of the industrial solvents used in cleaning and maintaining the
16 complex.

17 The warehouse portion of the complex backs up to an overgrown lot, which is separated
18 from Denim N' More's complex by a standard six foot chain link fence with one inch "three
19 wire" barbed wire at the top. There is an entrance/exit to the warehouse facing the rear fencing,
20 which I learned was an entrance very near to a break room for Denim 'N More employees.

21 While most of the warehouse portion of the complex has industrial polished concrete
22 floors, the aforementioned break room had commercial grade carpeting. Immediately upon
23 entering the break room, I noticed what I believed to be an ignitable liquid pour pattern. This is

1 occurs when an ignitable liquid is poured on to a surface such as carpeting. The liquid often
2 soaks into the carpet and/or pad. As the fire burns, the intensity of the fire echoes the amount of
3 ignitable liquid and forms a discernable pour pattern. I also used a portable hydrocarbon sniffer
4 to determine whether the vapor in the area affected by the fire was consistent with vapor from an
5 accelerant such as gasoline. Based on the readings I took, I determined that, in fact, gasoline had
6 been used as an accelerant in the fire. I immediately notified the cause and origin expert, Andy
7 Burns. Needless to say, Burns was more than impressed with my sleuthing skills. While he
8 never memorialized my findings in the report, we all agree that the fire was intentionally set and
9 incendiary in nature.

10 I interviewed several individuals to determine who had the motive and opportunity to set
11 the fire. One such interview was with Stacy Summers, Stewart's assistant. In furtherance of the
12 objectives of that interview, I surreptitiously recorded our interview, which was later transcribed
13 by a court reporter. I learned from Stacy, after some prodding, that Stacy was in a romantic
14 relationship with Jesse Stewart, who, of course, was and is married. Stewart had, based on my
15 observations, instilled a sense of superiority in Summers, who was lavished with professional
16 responsibilities far above pay grade, and was rewarded with increased remuneration and
17 expensive gifts. These gifts and pay raises were, as we now understand, contrary to the
18 economic viability of Stewart and Denim N' More. Summers articulated a great sense of loyalty
19 to Stewart, and believed Stewart to be beyond reproach. I believe that Stewart caused the fire
20 that destroyed parts of Denim N' More, and Summers was either complicit or ignorant – either is
21 a possibility.

22 I learned that, immediately prior to the fire, Denim N' More had begun software updates
23 for their phone systems, including the system designed to automatically alert authorities of such

1 occurrences as break-ins and fires. These upgrades did cause the phone systems to be down for
2 several hours. I found it strange that such an invasive upgrade was scheduled during the week.
3 However, by the close of business on the 14th, the phone lines were working, at least in terms of
4 Denim N' More employees being able to make and receive calls to the corporate lines. What did
5 not work, however, was the software designed to immediately alert authorities of fire. Upon
6 investigation of the scene it appears that the smoke detectors were unplugged, which is
7 suspicious in that they did not need to be unplugged in order to update the software.

8 Based on information provided by First State's cause and origin expert, Andy Burns, it
9 appears that there was an approximate one hour and 20 minute delay between the start of the fire
10 and the arrival of the fire department. Indeed, the fire department only learned of the fire
11 because of the call of a third party bystander that was driving by Denim N' More.

12 I knew that it could not be a coincidence that the fire alarms seemed to be manually
13 disabled, and a fire occurred immediately thereafter. I approached several employees of Denim
14 N' More. My lead came, however, from one employee's guilty conscience. While I was talking
15 with some other employees at a local Wilmington eatery, the Charcoal Pit, Prometheus Rae
16 approached me and asked to talk in private. Mr. Rae told me that he was eaten up with guilt over
17 something "awful" that he had done for Jesse Stewart. He told me that he was promised enough
18 money to get out of debt quickly, if he acted as "Stewart's accomplice" – his words, not mine.
19 He also told me that he was the "man on the ground," while Stewart was going to put some
20 distance between him/her and the job. Before Rae could get any further, he was approached by a
21 woman who I know now was his estranged wife, Semele Rae. They got into a loud argument and
22 then Rae excused himself and left the eatery.

1 I got Mr. Rae's address and went to interview him the next day. Unfortunately, I learned
2 that immediately after leaving the Meshach, Mr. Rae was struck on the head by a meteorite,
3 causing massive head trauma and near immediate death. I got the message loud and clear,
4 however.

5 Compounding all of this information, I learned that Stewart had taken an impromptu trip
6 to a second home in Pennsylvania at the time of the fire. No one seemed to be aware that
7 Stewart was out of the state at that time, which seemed strange. Of course, if you were putting
8 some distance between you and the job, this all seems very logical, doesn't it?

9 Based on the totality of information available to me, I ultimately recommended that First
10 State not pay the policy. I believed that there was more than enough evidence to support the fact
11 that Stewart, in concert with who-knows-how-many others, set the fire intentionally.

**WITNESSES FOR
DEFENDANT DENIM N' MOORE, INC.**

1 No, there had never been any burglaries or attempted break-ins at Denim N' More, as far
2 as I know. Once, one of my employee's vehicles was broken into while in the parking lot. We
3 were able to watch it on surveillance video, but the quality was so bad that we couldn't identify
4 the thief. That's been a few years ago.

5 When the fire happened, I got a call from my assistant. I depend pretty heavily on my
6 assistant, who also functions as my human resources manager. I left the Pennsylvania house
7 about 10:45 p.m. Friday night and got here about 1:30 a.m. Saturday morning. The firefighter in
8 charge told me that when they arrived, the very back door was open. You can see it on the
9 diagram I've brought. They couldn't tell me whether that's where someone broke into the
10 building, but they confirmed that it was open when they got there.

11 No, we really didn't have electrical problems apart from the stuff everybody deals with.
12 For example, sometimes a transformer at some substation would malfunction and the utility
13 company would have to go repair it.

14 We didn't have many disgruntled employees that I know of. Most of our employees have
15 been with Denim N' More for a long time. The last time I fired someone was about a month ago,
16 but it wasn't a particularly bad situation or ending to the employment. No, I don't have any
17 enemies or someone "out to get me" that I know of. Yeah, the police and fire people told me that
18 the sprinkler system was off, fire alarms were disabled, stuff like that. Whoever did that was a
19 sick person. Because that's serious stuff and I may not stay – Sorry, I get a little emotional when
20 I talk about it because I've spent over 30 years of my life in that business, and I don't know who
21 would do something like that. It makes me sick.

22 Jamie Whineshack is a great *employee*. The problem with Jamie is a terrible personality.
23 Truthfully, I loathe seeing that face coming down the hallway. But WONDERFUL employee!

1 Jamie always does what he/she is told to do. Always. I know that I should have promoted
2 Jamie, the work product is top-notch, but that rank personality just grates on my soul. I know
3 Jamie holds it against me that I haven't offered a promotion, but I am the boss, and that's the
4 perk of being the boss. Plus Jamie keeps showing up, so I think that secretly he/she wants to stay
5 in that job.

6 Prometheus Rae...I have no idea who that is. Could be an employee, we have about 100
7 now, but I don't know that person at all.

8 The software associated with our phones and, by extension, alarms was upgraded a day or
9 so before the fire – not clear on exactly when. I don't see anything strange about a necessary
10 update to our software, and I certainly was not going to let IT people roam around the complex
11 during the weekend when I was not around to check in on the progress. However, I never
12 authorized or was aware of any part of the fire alarm being unplugged or disabled.

13 As you can see from the diagram I've provided, there are several entrances to the Denim
14 N' More building. At just about every entrance, a person entering would trip a sensor on the
15 alarm system. The alarm system is monitored by an alarm company, who then calls me or my
16 assistant if it's triggered. One door doesn't have a sensor, because we lease out some space to a
17 screen printing company. Those guys come in a specific door to get to their little part of the
18 building.

19 I've never filed any fire claims before, either with Denim N' More or as an individual.
20 While times had been tough recently, I was still doing okay financially. Sure, some major clients
21 were having cash flow problems, but who hasn't been the last few years. In fact, I had been
22 toying with the idea of selling the place. I even hired a company to do a listing price appraisal

1 for me. But, I mean, I wouldn't have sold it if I couldn't have made money off of it. I was pretty
2 pleased with the valuation report that came in from the company I hired.

3 We bought this building back in 2003, and we upgraded all of our production equipment
4 not too long after that. We asked the fire marshal to come out and inspect the building and
5 property and make sure we were up to code. We did have to make a few changes. For example,
6 we used to stack materials and products 12 or 14 feet high, but under the new code, we can only
7 stack to 10 feet, so we had to make some revisions to our equipment. My understanding is that if
8 you accidentally stack too high, it's a danger of falling and hurting someone. The code inspection
9 also revealed that we shouldn't have been storing our chemicals so close to our raw materials.
10 We fixed that problem. Though, I will say that with a busy company, sometimes you have to
11 store things where there is room, and where you can get to them quickly. So, I would say that
12 from time to time chemicals were probably still stored near the raw materials. Our sprinkler
13 system also had some issues, so we spent about \$40,000 bringing it up to code.

14 We had some problems a few months ago with raccoons setting off the alarm. We kept
15 getting calls from the company, so we finally called an exterminator who caught the rascals.

16 Yeah, we have to make a monthly payment on our loans. Most specifically, there's the
17 property and building mortgage. J. Stewart Properties, like we talked about before, is the owner,
18 but it's strictly a pass-through to me. The first mortgage is with First State Bank for \$10,000 a
19 month, and the second mortgage is with New Castle County Bank and Trust for \$6,500 a month.
20 That's principal and interest. We also have a revolving line of credit – it's essentially a cash
21 management program backed up by the inventories and receivables. That allows us to borrow up
22 to \$2 million when we need it. This is about our highest point for the year; at best guess, we owe
23 about \$1,925,000 on the account. It's so high because of all the inventory we've been building

1 up over the past few weeks, getting ready for the fall rush – at least until the fire scorched this
2 company’s hopes and dreams.

3 We’re only in arrears for one month on an account. We got a great quote from another
4 financial institution that was going to save us about \$6,000 a month on our mortgage payments,
5 but we didn’t get the loan approved in time, so we’re a month late. No big deal, though, I’m told.
6 We’re not in foreclosure or anything, and we have great relationships with the banks we use.

7 Our current financial status isn’t unexpected or even unusual. Utility companies, some of
8 our big clients, typically purchase new uniforms during the first few weeks of the year, and
9 janitorial clients purchase in the spring and fall. Our dealers and sales reps are trying their best to
10 collect money for us, but it’s tough, given the yearly cycles. Everybody in the business
11 understands the cycle. And because of the current economic climate, some clients are cutting
12 back on the goods we provide, or on some “frills,” like embroidering, logos, and so on. But, our
13 equipment is practically new, and everyone’s always going to need jeans. So, we could pretty
14 easily shift from primarily special orders to a more generic denim product for a big box store if
15 we really needed to. There are no liens or suits pending against me or Denim N’ More. We’ve
16 never filed bankruptcy or been audited by the IRS.

17 After the fire, I found some personal items missing from the fire-proof safe in my office.
18 Most importantly, I had a State University championship ring that I was awarded. A couple of
19 expensive wristwatches from big bowl games were gone, as was an autographed football. I have
20 also included claims for those in my claim for the fire damage, because I can only assume that
21 whoever broke in to steal those items is responsible for the fire, whether or not the fire was set
22 intentionally.

1 Actually, I went today to look at two other facilities that we might be able to use. We still
2 have orders pending, and I fully intend to be back in business as soon as I can. It will probably be
3 a matter of when the insurance money comes through so I can fund my payroll, rent equipment,
4 and purchase raw material. It is not like there will be a lot left over after all of that is done.

5 There aren't any health, sanitation, building or zoning violations in place—or, at least,
6 there weren't. Never been an issue. In fact, along with the refinancing we discussed earlier, I
7 had an environmental study done that we passed with flying colors.

8 Yes, the sprinkler master valve was held in the “on” position by a lock. Our maintenance
9 supervisor had the only key. The fire department told me they couldn't find the lock. But it could
10 have been cut off by the fire department – who knows? It was a crazy night.

11 The master alarm box was destroyed by whoever broke in, as was the video recording
12 system. Well, I guess you kind of have to know what you're doing to find those things, but they
13 weren't hidden or locked up. There was also a lot of copper wiring missing from the building,
14 especially on the roof where the heavy gauge cables for the air conditioning units were. Scrap
15 copper can be recycled for lots of money these days - \$2.30 to \$2.40 a pound. Maybe robbery
16 was the motive for this fire. Between the memorabilia displayed in my office and the copper, it
17 could have been a pretty good haul.

18 Yes, I had a little run-in with the law several years ago. Denim N' More had been doing
19 very well, and I decided to use some of the income to make some quick cash in the stock market
20 on the advice of a friend. He gave me lots of information about which stocks to buy. I was a little
21 concerned, but he assured me it was ok. Long story short, I was charged with several counts of
22 insider trading. I still believe I didn't do anything wrong, but I really didn't want to go through
23 the bad publicity of a trial. The assistant U.S. Attorney offered to dismiss all the charges except

1 for the most minor one, so I plead guilty to one count. That was all the way back in 1992.
2 Although my attorney tells me a felony like that could have carried some jail time, I paid a fine
3 and some restitution, and that was the end of it.

4 Yes, I've done my best to answer all of your questions fully and truthfully.

1 the business is in poor shape financially because of the economy and in need of a loan. I know
2 that Jesse has looked into getting a loan, but I do not know the status.

3 I was surprised to learn of Jesse's trip to Pennsylvania on the evening of the fire. Jesse
4 always tells me where he/she is going and I am always on top of the boss's calendar. I supposed
5 it couldn't be too strange, however, Jesse and Avery love one another, and they would never split
6 up, for any reason, at least that is what I am learning.

7 Anyway, on June 14th, I worked like I do every other weekday. One thing I remember
8 was that Jesse's door was closed that day. This was very rare so I thought he/she may be waiting
9 on an important call from the bank about the loan. Jesse left early and I assume went to
10 Pennsylvania. That was common on Fridays. I was actually surprised Jesse worked for as long
11 as he/she did, but I know that he/she wanted to oversee the IT people upgrading our telephone
12 software. Once they were done, and everything was back to normal with the phones, I suppose
13 Jesse decided to head out.

14 Denim N' More is one of those places where, when the boss leaves, work effort kind of
15 trails off. That's what happened on June 14th. I remember that most of the workers stayed till
16 about 4:30 to 4:45 p.m. that day and then left early. I stayed until my normal leaving time, 5:00
17 p.m., and then began to pack my things to go home. Normally, Jesse is responsible for locking
18 the building, but, since he/she was not there that day, it was my responsibility. By locking the
19 door, people could still leave the building, but no one could get in without a key. I am unaware
20 whether anyone other than Jesse and me had a key. As I was leaving the building I noticed
21 Jamie Whineshack was still at work. I told Jamie good night, left the building and locked the
22 door at approximately 5:05 p.m. I went home, ate dinner and watched TV, my favorite television
23 show – *Rescue Me, Please*, and then prepared for bed.

1 As I was getting ready for bed, I realized that I forgot my bag at work. I left my house
2 and drove to the office to pick it up. I arrived at the office at approximately 8:45 p.m. I remember
3 being amazed to see that Jamie Whineshack's car was still in the parking lot. I entered the
4 building and retrieved my bag from my office. All the lights in the building were turned off
5 except one in the rear portion of the building where the raw materials were stored. I remember
6 having an uneasy feeling about being alone in the building so I quickly grabbed my bag and
7 hurriedly walked to the front door. I left the building and walked to my car to go home. It was
8 approximately 9:00 p.m. I cannot remember whether I locked the door. The next morning I
9 received a call from Jesse Stewart saying that there had been a fire at the office. Jesse sounded
10 devastated, and I was shocked. I rushed to Jesse's side and pledged to help Denim N' More rise
11 from the ashes!

12 I believe with all my heart that Jesse treats the business like a baby and would never do
13 anything to hurt it; especially setting the building on fire. I also know that Jesse would not do
14 anything intentionally to cause me, or any of the other employees, to lose our jobs.

1 ● JAMIE WHINESHACK ●

2 My name is Jamie Whineshack. I have been an employee at Denim N' More for five
3 years. Prior to that, I received an Associate's Degree in Accounting from Atlantica Community
4 College. When I began with Denim N' More, I worked in the front office and was technically
5 only a level II administrative assistant, even though I was doing everyone else's job. If you
6 needed something done, I could do it – I guess you could say I carried the place. Approximately
7 three-and-half years ago, I transitioned into a job working with the plant manager who oversaw
8 the actual sewing. Once again, I was doing most of the work.

9 When I heard there might be a senior level administrator position opening up with Denim
10 N' More in the corporate part of the complex, I decided to apply. I know that I have the assets
11 that this company needs – especially if it would like to stay afloat. At the time, my music career
12 hadn't taken off and I had to pay the bills. I mean don't get me wrong I had a few gigs playing
13 some local dive bars but I wasn't rolling in the dough – yet. I am a pretty good musician, but the
14 days when speed metal-bluegrass fusion music was all the rage are sadly behind us. A higher-
15 paying day job would have been manna from heaven.

16 When I interviewed with Stewart, I was convinced that this was the job for me. Stewart
17 gave me such a sales pitch that I was blown away. Stewart said there was even room for more
18 advancement. Said that that Denim N' More was a business that rewarded hard work and good
19 ideas. I got excited, thought maybe this would be my ticket. I am full of good ideas and I am
20 great with people. My skills were being wasted on the plant floor. Not to mention this could
21 give me a better income until I could make it big with my music.

1 Unfortunately, I was passed over. And this wasn't the last time. Every time a job opens
2 up in the corporate part of the complex, I apply, and I get passed over. There is no room for
3 growth in the plant – I can't sew! But, I have all the talent for administration.

4 Stewart told me that it was company policy to do employee reviews every six months.
5 The idea was that promotions and raises would be based on good job performance. Ha – what a
6 joke! Not once in my five years with the company have I gotten a raise or a promotion.

7 When I got hired, I started out as the level II administrative assistant. I was responsible
8 for helping track invoices and providing general support to the manager. It didn't take much
9 brain power to tackle that job. So me being the kind of person I am, I started looking for other
10 things to do so I wouldn't be bored. Five years later, and I am still an entry-level employee
11 making \$9.00 an hour. The only thing that has changed is that now I do three times the amount
12 of work. I guess the idea of rewarding employees for working hard was not in Stewart's
13 vocabulary.

14 Don't get me wrong, I thought about quitting a time or two. But let's face it, these days
15 any job is better than no job. The economy was bad and even Denim N' More was cutting jobs.
16 There was no way I could quit, my landlord is tough and I have to pay rent no matter what, plus I
17 had my eye on a new guitar. Besides I would never find another cake job like this, the work was
18 so easy even a monkey could have done it.

19 And, even though I wasn't promoted, I was still a good employee. I have always shown
20 up and done my work. I always had good reviews. Take a look at my file and you will see -
21 they were lucky to have me!

22 I can only remember getting a bad review one time. Earlier last year, I was having some
23 personal issues and I checked myself into this rehab facility. I was only there for a few days

1 before I got myself straightened out, but that meant I was out of work. I explained what was
2 going on and my supervisor claimed to understand but I was marked down anyway. That just
3 shows what kind of “compassionate” boss I had. If you ask me, Stewart and the whole team just
4 didn’t like my new lip piercing and were looking for a reason to give me a bad review. It doesn’t
5 matter though that was the one and only time that I ever got a bad review.

6 In 2008, I went through another tough time when I was arrested, charged, and eventually
7 pled guilty to felony forgery. I don’t really like talking about that period in my life, but yes, I did
8 forge some documents under the name Blanche Anderson. I wasn’t thinking straight, and
9 probably if the truth was known, wanted to get caught.

10 It seems that Stewart never paid much attention to me, even though I was the best person
11 in that office. Someone Stewart did pay attention to was that assistant, who also functioned as
12 head of HR. You work at a place long enough and get to know the people you work with and let
13 me tell you people talk. I guess it’s the same way everywhere. You know that sometimes it’s
14 true but sometimes it’s just gossip to keep people entertained. I will tell you though, I heard
15 from more than one person there was something going on between them. I don’t know exactly
16 what, but they definitely had a different relationship than Stewart and I had that’s for sure. They
17 would all the time go to lunch together and come back smiling and laughing. Stewart has never
18 offered to take me to lunch, not even when I brought business in to the company.

19 Oh yes, I bring in business. Even though I am working as an entry level employee for the
20 plant manager, when my high school friend opened a new private academy, the Pele Academy, I
21 made sure that they got their janitorial uniforms from Denim N’ More. Do you know that I
22 didn’t even get a thank you for the new account? Like always, Stewart put a spin on things and

1 took all the credit. I will just be honest with you, after everything I have put up with, Stewart
2 could die a slow, painful death and it wouldn't bother me one bit.

3 To think all those years I worked for that jerk just to be left without a job. Denim N'
4 More has been closed since the fire happened, the building was totally destroyed. Since then I
5 haven't been able to find work.

6 The fire happened on June 14th, which was a Friday. That day was pretty normal and I
7 don't remember anything odd going on. I was working on invoices for the latest shipment going
8 out, trying to finish up so I could get out of there – I had a gig that night! That afternoon, a little
9 while after I got back from lunch, I heard Stewart's voice in the front office as I was walking to
10 my desk in the plant. When I walked into the lobby, I saw that Stewart had packed up and was
11 heading out early. This of course did not surprise me in the least. Everyone knew that Stewart
12 took off early on Fridays with or without a good reason. Why not when there were people like
13 me there to pick up the slack.

14 Anyway, Stewart flashed a smile and headed for the door as I heard "See y'all later, I'm
15 headed for the hills" which is code for being out of commission until Monday rolls around. I
16 mean it just isn't fair; Stewart hardly ever works and has a life of exorbitant luxury. I work my
17 butt off and still live in my one bedroom loft apartment.

18 Anyway, like I was saying, just a typical Friday. Once Stewart left, the rest of us worked
19 till around 5:00 pm. I usually make it a point to not leave before 5 o'clock. Mostly because I'm
20 worried that someone will tell Stewart that I left early. That day, I clocked out about 5:05 p.m.,
21 but waited around for my ride to pick me up – I am too exhausted to drive home after I pour my
22 heart and soul into my speed metal-bluegrass inspired soon-to-be hits. I don't know how long I
23 waited, but I probably ran through a couple of smokes outside in the parking lot. I ran into that

1 awful Stacy Summers while I was waiting, and I said goodnight. I was set to play at The
2 Terminal that night and I really wanted to get ready. Otherwise, it looked to me like the place
3 was pretty much shut down and we were the only ones left. I wasn't paying very good attention
4 because I was in a hurry to get out of there.

5 I came back and got my car the next day, but found the smoldering ruins of my prison. I
6 love the thought of what the fire did to Stewart, but I don't love the fact that my unemployment
7 benefits don't cover rent and food. I need a job, and would be happy to get back to my desk at
8 Denim N' More. I just hope that Stewart learns to appreciate talent if he can ever manage to get
9 the company back in business.

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

FIRST STATE LIABILITY INSURANCE)	
COMPANY, INC.,)	
a Delaware corporation,)	
)	C.A. No.: N14C-06-123 (ALR)
Plaintiff,)	
)	TRIAL BY JURY OF TWELVE
v.)	DEMANDED
)	
DENIM N’ MORE, INC., a Delaware)	
corporation,)	
)	
Defendant.)	

Exhibit List

- Exhibit A AAA CPAs Appraisal Report of Denim N’ More
- Exhibit B Andy Burn’s Curriculum Vitae
- Exhibit C Fires by Burns Investigations’ Origin & Cause Report
- Exhibit D Transcript of Interview of Stacy Summers
- Exhibit E Denim N’ More Complex Diagram
- Exhibit F Star Jewelers’ Receipt
- Exhibit G Jamie Whineshack’s Denim N’ More Employee File
- Exhibit H Certified Copy of Plea Agreement in *State v. Whineshack*

AAACPA's
827 E. Random Rd.
Middletown, DE,
19709

Report Date- January 1, 2013

VIA EMAIL TRANSMISSION ONLY

Jesse Stewart
Denim N More
jstewart@denimn'more.com

Re: Appraisal of Denim N More

Dear Jesse:

We have been engaged to estimate the fair market value of the tangible and intangible assets of Denim N More as of December 31, 2012 for the purpose of listing the subject business for sale. Since we were engaged for this limited purpose, this report does not represent a self-contained comprehensive report, but it does represent our professional best efforts in the limited scope of our engagement. It is, however, strictly advisory and should only be used in conjunction with your Realtor for listing purposes. It is not to be relied upon for purposes of tax planning, business succession planning, insurance valuation, or divorce, and this appraisal may be invalid if used for any such purpose.

For the purposes of this Report, the term "Fair Market Value" is defined as:

"The cash or cash equivalent price at which property would change hands between a willing buyer and a willing seller, neither being under a compulsion to buy or sell and both having reasonable knowledge of relevant facts."

This summary report is intended for use by Denim N More and its advisors. All others possessing this report are not intended users. The appraiser does not authorize and is not responsible for use of this report by any party other than the client or an intended user(s).

Based on the information given to us, we have completed a valuation for the purposes of listing the subject business for sale. It is our understanding that the business could be sold to a purchaser interested in continuing the regular operation of the business or that potential purchasers might consider converting the business to manufacturing a different type of denim product. It is additionally our understanding that the equipment currently used in the business is less than three years old and is such of a nature that it could be conveyed to assist in the manufacturing of almost any textile.

EXHIBIT

A

In our review, we noted that Denim N More customarily uses a cash accounting basis, and we assumed any purchaser would use the same. However, we feel it is important to draw your attention to the fact that, if your receipts ever exceed \$7,000,000, federal law would require you to account on an accrual basis. While the accounting method does not actually affect the financial viability of a company, it does make it look different "on paper," and would likely affect the Fair Market Value of the company in some small way.

Summary of Valuation Methods

Tangible Asset Value (inventory & equipment) \$355,000

Market Approach to Value

Comparable transaction method	None available
Industry transaction method	\$450,000 (sale of jean factory supplying retailers Coconut Democracy, The Space, and Aged Air Force in August 2009)

Income Approach to Value \$375,000

Due to current negative cash flow situation, did not calculate excess cash flow multiplier, but value includes the full \$275,000 value of 250-day outstanding account of Janitors lz Us.

Debt service obligations	\$75,000 per month (Denim N More/Jesse Stewart)
--------------------------	--

Monthly revenue assuming timely collection of 95% of accounts, based upon stable order levels	\$155,000 per month
---	---------------------

Adjustment for Goodwill	\$65,000
-------------------------	----------

Reviewing the different approaches to valuation available, it is our estimate that the enterprise value of Denim N More as of December 31, 2012 can be reasonably stated as \$440,000. This does not consider the value of the real estate. The value considerations herein are contingent upon the analysis and limiting conditions as set forth in the body of the report.

Respectfully Submitted,

M. R. Valuator, CPA, Certified Valuation Analyst, Accredited Senior Appraiser

ANDY BURNS

CERTIFIED FIRE INVESTIGATOR
WILMINGTON, DELAWARE

CURRENT EMPLOYMENT

FIRES BY BURNS INVESTIGATIONS
Wilmington, DE

Est. January 2002
Phone: (302) 123-4567

PROFESSIONAL EXPERIENCE

Andy Burns has over 15 years experience in fire suppression and investigation. Andy has 11 years experience with the Wilmington, Delaware Fire Department and had four years experience in fire suppression with the U. S. Air Force Crash Fire Rescue. Andy also has a Technical Certificate in Fire Science, as well as a Bachelor's Degree in Fire Science, from Blue Gold University, Newark, Delaware.

Andy has testified as an expert witness in Delaware State Courts and is a recognized expert in structural, vehicle and heavy equipment fires.

EXHIBIT

B

SPECIALIZED EDUCATION/COURSES

2011	Modern Techniques of Arson Investigation	Christiana, DE
2010	Modern Techniques of Arson Investigation	Christiana, DE
2009	Modern Techniques of Arson Investigation	Christiana, DE
2008	Modern Techniques of Arson Investigation	Christiana, DE
2007	Fire Instructor I	Wilmington Fire Department
2007	Modern Techniques of Arson Investigation	Christiana, DE
2006	Modern Techniques of Arson Investigation	Christiana, DE
2006	Fire Officer I	Wilmington Fire Department
2005	Modern Techniques of Arson Investigation	Christiana, DE
2005	Fire/Arson Investigation	San Francisco, CA
2004	Modern Techniques of Arson Investigation	Lewes, DE
2003	Fire/Arson & Explosion Investigation	Biloxi, MS
	Determining Cause & Origin	
2003	Hazardous Materials	Felton, DE
2003	Modern Techniques of Arson Investigation	Christiana, DE
2002	<i>Bachelor of Science, Fire Science Technology</i>	Blue Gold University
2001	Hazardous Materials Incidents	Christiana, DE
2000	Fire Fighter II	Wilmington Fire Department
1999	<i>Associate Degree, Fire Science</i>	Downstate Community College
1999	Certified Fire Fighter	U.S. Dept. of Defense
1998	Hazardous Materials Technician	U.S. Air Force
1998	Hazardous Materials Awareness	U.S. Air Force
1998	Hazardous Materials Operations	U.S. Air Force

CERTIFICATIONS & LICENSES

Certified Fire & Explosion Investigator - NAFI
 Certified Hazardous Materials Technician
 Certified Fire Fighter
 State of Delaware Private Investigator License

FIRE ORIGIN AND CAUSE EXPERT WITNESS TESTIMONY

- *Superior Court*, New Castle County: May 2013; February 2012; August 2010; May 2010
- *Superior Court*, Kent County: May 2011; April 2009; January 2009
- *Superior Court*, Sussex County: March 2013; January 2011

PROFESSIONAL MEMBERSHIPS

International Association of Cause and Origin Experts
International Association of Arson Investigators
National Association of Fire Investigators International
Association of Fire Fighters



FIRES BY BURNS INVESTIGATIONS

ORIGIN AND CAUSE REPORT

SUMMARY OF EVENT:

Certified Fire Investigator (CFI) origin and cause determination.

NARRATIVE:

1. On, Friday, June 14, 2013 at approximately 10:30 p.m., a fire occurred at Denim N' More, Inc. textile manufacturing facility at 1001 Jeans Avenue, Wilmington, DE. The Wilmington Fire Department and Delaware State Fire Police contacted Andy Burns to request assistance with the fire scene examination. The fire was classified as arson.

PARTICIPATING FIRE INVESTIGATORS:

2. The following investigators participated in the scene examination:
Andy Burns, Certified Fire Investigator,
Fires by Burns, 302-123-4567
Investigator Michael Johnson, Lead Investigator, Delaware State Fire Police
Investigator Yagmur Merteuil, First State Liability Insurance Company

SECURITY:

3. The integrity of the scene was maintained by the Delaware State Fire Police throughout the scene examination.

OWNER:

4. The property was owned by Jesse Stewart. The property was insured at the time of the fire by First State Liability Insurance Company.

FIRE DISCOVERY: -10:30 p.m.- Friday, June 14, 2013

5. Smoke coming from the area of the Denim N' More factory was reported to the Wilmington Fire Department (WFD) at approximately 10:20 p.m. on Friday, June 15. Based on the severity of the fire as reported by the fire department, I estimate that it had been burning for approximately 90 minutes prior to the arrival of the fire department.

FIRE SUPPRESSION: Wilmington Fire Department (WFD) Incident# 2013-3150.

6. The first arriving engine was Truck 35. Captain Tom Anderson was the Captain assigned to Truck 35 on the evening of the incident. His contact telephone number is 302-555-4573.
7. Captain Anderson stated that when he arrived at the scene, fire crews discovered that a substantial portion of the Denim N' More manufacturing plant was in flames. Particularly, the rear, easternmost portion of the building was completely engulfed.
8. WFD crews worked for over thirteen (13) hours to suppress the fire.

WEATHER:

9. www.wunderground.com reported the following weather observation at Wilmington, Delaware on June 15 at 10:30 p.m.: the wind was out of the WNW at 3.9 miles per hour, the temperature was 67 degrees Fahrenheit and the dew point was 64 degrees Fahrenheit. The humidity was 86%.

The visibility was 7 miles.

BUILDING CONSTRUCTION & CONDITION:

10. The affected building was a one-story textile manufacturing facility. The address of the affected building was 1001 Jeans Avenue. The east side of the building was adjacent to Corduroy Avenue which extended north and south. The main entry door of the factory was located on the south side.

11. The factory was a wood and concrete structure. The building was irregularly shaped and measured approximately 142 feet in length by 98 feet in width. Assessor's records list the structure as having been built in 1983. The building was located on a 2-acre lot in an urban services district.

ELECTRICAL AND NATURAL GAS SERVICE:

12. The building was reported to have been supplied by the local utility company. Water and sewer service were reportedly provided by the municipality. The building's electrical system consisted of both conventional and "explosion safe" or classified wiring. The building's electrical system was regularly serviced and updated by Wilmington Electrical Company. The building was heated by an oil fired hot water/steam furnace. The building was also equipped with hot water radiant heaters equipped with electric blowers. The building was equipped with a dust collection system, terminating in a dust collector on the exterior of the building. The building was also equipped with a number of exhaust fans. All utility services were visually examined, photographed and eliminated as a cause for the fire.

FIRE PROTECTION SYSTEMS:

13. The building was equipped with an automatic fire alarm system. According to the Wilmington Fire Department, this system was permitted and installed in August 2001 by Wilmington Electric Co. A portion of the system was tested on a quarterly basis by the Wilmington Fire Department. The fire alarm system was checked, and found to be disabled and NON-FUNCTIONING at the time of the inspection.

LEGAL CONSIDERATIONS:

14. The fire scene investigation was conducted at the request of the First State Liability Insurance Company.

SCENE PROCESSING:

15. CFIC Burns arrived at the fire scene at approximately 7:40a.m. (Sunday, June 16, 2013) and contacted Investigator Michael Johnson, the lead investigator for the Delaware State Fire Police. Preliminary information was provided regarding fire discovery and fire suppression efforts.

16. A systematic approach was used; examination progressed from outside to inside and from areas suspected of having the least damage to areas of greater damage with emphasis on recognition, identification, and analysis of fire and heat patterns.

EXTERIOR EXAMINATION:

17. The exterior examination was initiated from the west side of the building where smokestaining was exhibited above the main entry door.

18. Smoke staining was exhibited above the entry door on the south side of the building.

19. Significant fire damage was present on the east and north side of the building.

INTERIOR EXAMINATION:

20. All rooms in the building exhibited smoke staining. The only area in the building that exhibited fire damage greater than smoke staining was the rear, eastern portion of the factory, which housed raw materials.

21. The subpanel located on the west side of the west wall of the building was examined. Although three breakers were tripped, this did not appear to show electrical malfunction as cause of the fire.

22. The furnace and the heater that were located near the southwest corner of the building were examined. The gas supply lines were in place and unaffected by fire as was all associated duct work.

23. The north and west sides of the building were examined and showed significant smoke damage.

24. The remains of the easternmost, rear portion of the building were examined carefully. Flooring was cement. The eastern exterior wall was no longer intact. Burn marks on the floor showed that fire originated here, as did spalling and flaking of concrete. Samples obtained from area show presence of Acetone.

EVIDENCE:

25. Evidence was collected from six locations in the building. Investigator Johnson took digital photographs of the fire scene investigation.

FIRE PROGRESSION TO OTHER STRUCTURES:

26. The fire did not extend to any other structure.

NUMBER OF FATALITIES AND/OR INJURIES:

27. There were not reported fatalities or injuries.

CONCLUSION:

28. Based upon the fire scene examination, physical evidence, firefighter and witness statements, and the knowledge of fire development, the fire originated in the rear, easternmost portion of the building, on the floor in the storage room.

29. Ignition was the result of a chemical accelerant; namely, Acetone.

30. The fire was classified as non-accidental.

ESTIMATED VALUE OF LOSS:

31. The total fire damage was estimated to be \$450,000.

DISPOSITION:

Technical assistance provided.

Signed this 1st day of Aug, 2013



Andy Burns, Certified Fire Investigator
Fires By Burns Investigations

INTERVIEW OF STACY SUMMERS

The following is a verbatim transcription of the interview of Stacy Summers, as conducted by Yagmur Merteuil:

Merteuil: Thank you for agreeing to sit down and talk with me, I appreciate your help in getting to the bottom of this matter.

Summers: I am happy to help. I am not exactly sure who you represent, though. Do I need a lawyer or something?

Merteuil: Not at all. I am an investigator with the insurance company that holds the policy for Denim N' More. I am just trying to make sure that my employer understands what happened before they pay the policy. Normal procedure.

Summers: Okay.

Merteuil: So, um, can you tell me what your job title is here at Denim N' More?

Summers: I am technically Jesse Stewart's administrative assistant, but I am sort of a catch-all for the administrative side of the business. I am also, ya know, in charge of HR.

Merteuil: I'm sorry, can you repeat that last part?

Summers: HR, you know, Human Resources. I run HR for the company.

Merteuil: And how long have you held that position?

Exhibit

D

Summers: I have been employed here for about eight or nine years. Started out as exclusively an administrative assistant, but picked up more responsibility as I went.

Merteuil: And were you here on the evening that the fire occurred, um, June 14th, I believe?

Summers: Well, if you are asking if I worked that day, then yes, I did work June 14th. But that was just a normal day.

Merteuil: So, you didn't... (interrupted)

Summers: Well, uh, let me clarify. I worked until about 5:00p.m., went home, did my thing, but I did come back about 8:30 or 9:00 to retrieve my bag that I had left there.

2

Merteuil: Okay. Thank you for the clarification. I know that sometimes you can feel like you are being put on the spot with these questions, but I don't mean to imply anything.

Summers: I understand.

Merteuil: And when you came back to the complex to get your bag, did you notice if anyone was here or if anything looked odd?

Summers: Not really. I noticed that Jamie Whineshack's car was here, and maybe a light on, but even that I am not one hundred percent on.

Merteuil: Who is Jamie Whineshack?

Summers: Just an employee here. Hard worker. But Jamie is a creep-o-potamus. When I saw that Jamie was here, I knew to be quick. I don't want to be alone with Jamie, and my gracious I donot want to have to hear another one of those stupid demo songs from that speed metal-bluegrass fusion band. All those banjos, and screaming. Ugh.

Merteuil: What about Jesse Stewart? Was Stewart around that evening?

Summers: No, I am not sure where Jesse was. Home I suppose, but I don't know that as a fact?

Merteuil: Would you be surprised to know that Jesse was with Avery Stewart at their home in Pennsylvania.

Summers: Pardon?

Merteuil: Jesse and Avery were together at their Pennsylvania home. At least that is what Jesse says.

Summers: That lyin', no good, awful donkey. Jesse was with Avery? Jesse told me that if we stuck together through this whole fire mess, that we would get married and Avery would be out of the picture. I have done everything right. I deserve Jesse after all of this.

Merteuil: So you knew that Jesse was going to start the fire?

Summers: No, no, no, no, of course I didn't. Jesse. I mean, no, Jesse never started the fire. That is what Jesse told me after everyone learned of the fire.

Merteuil: So, how was Jesse lying by being with Avery before the fire?

Summers: I just mean that, ya know, we have something special. Jesse would never. Jesse loves this company, for better or worse, even through these recent lean times.

Merteuil: Tell me about the lean times.


Summers: I don't like where this is going. And I know exactly what you are implying. I had nothing... we had nothing... no, we had nothing to do with this fire.

I'm done. This interview isn't about the fire, you just want dirt. No, this is over.

4

This is the end of the recorded interview.

I declare under penalty of perjury that the foregoing transcription is true, correct, complete, and accurate.


XING XING BO
Transcriptionist

7/10/13
Date

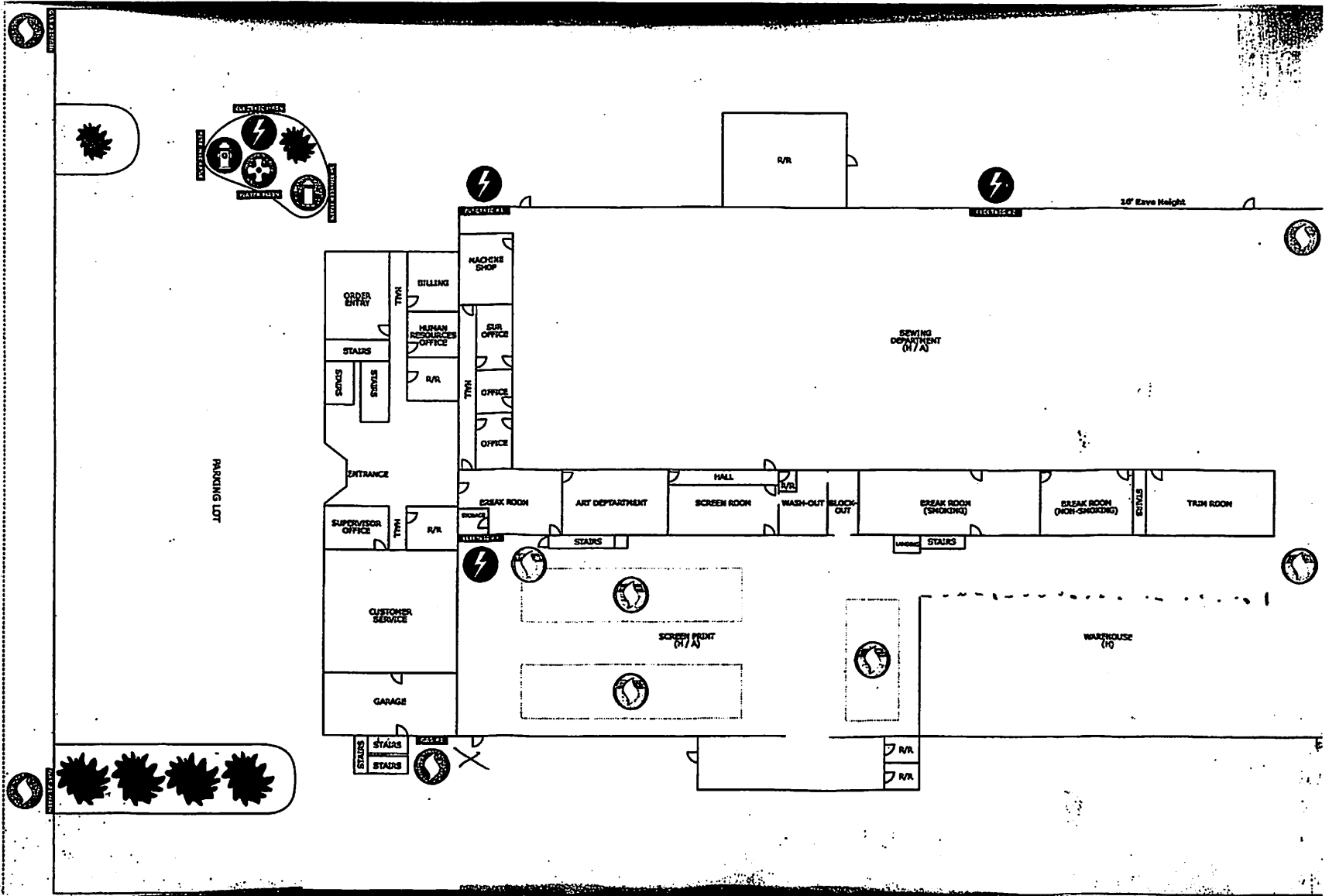
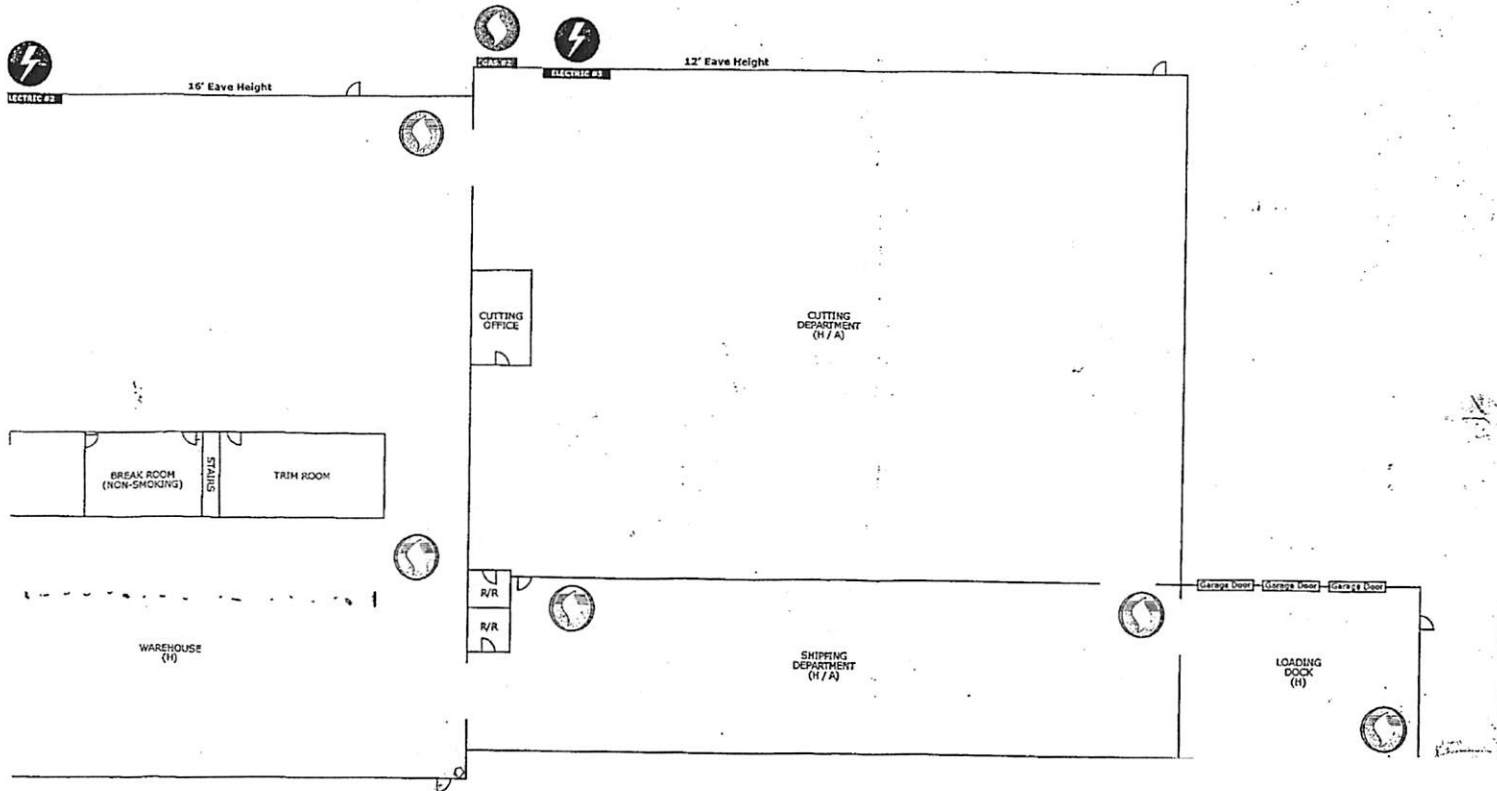





EXHIBIT
E
 tabbies

LOWER LEVEL



Total Square Footage Lower Level: 44,748'

 Natural Gas Cut-Off	 Electric Cut-Off
 Natural Gas Heaters / Ovens	

SS-
Just in case
you need or want
to exchange this!
XO-
jo

Star Jewelers
2201 State Street
Wilmington, DE
May 31

Audio Puget XC42
0987641 10 \$12,053.00
Subtotal \$12,053.00
Tax 9.25% \$1,114.90
Total \$13,167.90
MASTERCARD \$13,167.90
ACCT# XXXXXXXXXXXXX3729
M AUTH# 97289
CHANGE \$0

This receipt must accompany return for exchange,
refund or credit to account.

EXHIBIT
F

Denim N' More

Employee File:

Jamie Whineshack




DENIM N' MORE PERFORMANCE EVALUATION FORM

Name: JAMIE WHINESHACK Position Title: ASSISTANT MANAGER
 Review Date: JANUARY 2009 Individual Conducting Review: J. STEWART

INSTRUCTIONS: This form will be completed annually by the employee's immediate supervisor. Once the review has been conducted, a copy is given to the employee and the original is kept in the employee's file.

Rate the employee's performance relative to time in position by checking the most appropriate rating. Make an explanatory comment to support your rating if necessary, and where possible cite specific examples of behavior that led to the rating. When performance does not meet expectations, list specific goals for improvement and the date you expect them to be achieved.

	Not Applicable	Does not Meet Expectations	Meets Expectations	Exceeds Expectations	Comments
Productivity: The volume of acceptable work produced. Ability to organize and prioritize work; utilize time well and fully meet deadlines.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Just hired not enough information to evaluate performance!
Quality: The ability to complete work accurately and neatly to meet quality standards.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Responsibility/Initiative: Acceptance and fulfillment of work assignments, leadership, intelligent decision making.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Relationships: The ability to establish and maintain effective relationships with others with whom interaction is required in the performance of the position.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Adaptability/Resourcefulness: The ability to adjust to change with a minimum of disruption to productivity. Ability to contribute useful ideas for improved performance of the position.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Attendance/Punctuality: Absences in this review period: _____ days OK Days tardy in this review period: _____ occurrences.					
Supervisory Skills: The ability to get effective results from others.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Overall Evaluation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Supervisor: 
 Employee: Jamie Whineshack


DENIM N' MORE PERFORMANCE EVALUATION FORM

Name: JAMIE WHINESHACK Position Title: ASSISTANT MANAGER
 Review Date: July 2009 Individual Conducting Review: J. STEWART

INSTRUCTIONS: This form will be completed annually by the employee's immediate supervisor. Once the review has been conducted, a copy is given to the employee and the original is kept in the employee's file.

Rate the employee's performance relative to time in position by checking the most appropriate rating. Make an explanatory comment to support your rating if necessary, and where possible cite specific examples of behavior that led to the rating. When performance does not meet expectations, list specific goals for improvement and the date you expect them to be achieved.

	Not Applicable	Does not Meet Expectations	Meets Expectations	Exceeds Expectations	Comments
Productivity: The volume of acceptable work produced. Ability to organize and prioritize work; utilize time well and fully meet deadlines.	_____	_____	✓ _____	_____	
Quality: The ability to complete work accurately and neatly to meet quality standards.	_____	_____	✓ _____	_____	
Responsibility/Initiative: Acceptance and fulfillment of work assignments, leadership, intelligent decision making.	_____	_____	✓ _____	_____	
Relationships: The ability to establish and maintain effective relationships with others with whom interaction is required in the performance of the position.	_____	_____	✓ _____	_____	
Adaptability/Resourcefulness: The ability to adjust to change with a minimum of disruption to productivity. Ability to contribute useful ideas for improved performance of the position.	_____	_____	✓ _____	_____	
Attendance/Punctuality:					
Absences in this review period: <u>0</u> days					
Days tardy in this review period: <u>0</u> occurrences.					
Supervisory Skills: The ability to get effective results from others.	✓ _____	_____	_____	_____	
Overall Evaluation	_____	_____	✓ _____	_____	

Supervisor: 
 Employee: Jamie Whineshack



DENIM N' MORE PERFORMANCE EVALUATION FORM

Name: JAMIE WHINESHACK Position Title: ASSISTANT MANAGER
 Review Date: January 2010 Individual Conducting Review: J. STEWART

INSTRUCTIONS: This form will be completed annually by the employee's immediate supervisor. Once the review has been conducted, a copy is given to the employee and the original is kept in the employee's file.

Rate the employee's performance relative to time in position by checking the most appropriate rating. Make an explanatory comment to support your rating if necessary, and where possible cite specific examples of behavior that led to the rating. When performance does not meet expectations, list specific goals for improvement and the date you expect them to be achieved.

	Not Applicable	Does not Meet Expectations	Meets Expectations	Exceeds Expectations	Comments
Productivity: The volume of acceptable work produced. Ability to organize and prioritize work; utilize time well and fully meet deadlines.	_____	_____	✓ _____	_____	
Quality: The ability to complete work accurately and neatly to meet quality standards.	_____	_____	✓ _____	_____	
Responsibility/Initiative: Acceptance and fulfillment of work assignments, leadership, intelligent decision making.	_____	_____	✓ _____	_____	
Relationships: The ability to establish and maintain effective relationships with others with whom interaction is required in the performance of the position.	_____	_____	✓ _____	_____	
Adaptability/Resourcefulness: The ability to adjust to change with a minimum of disruption to productivity. Ability to contribute useful ideas for improved performance of the position.	_____	_____	✓ _____	_____	
Attendance/Punctuality:					
Absences in this review period: <u>1</u> days (took sick leave)					
Days tardy in this review period: <u>0</u> occurrences.					
Supervisory Skills: The ability to get effective results from others.	✓ _____	_____	_____	_____	
Overall Evaluation	_____	_____	✓ _____	_____	

Supervisor: 
 Employee: 

DENIM N' MORE PERFORMANCE EVALUATION FORM

Name: JAMIE WHINESHACK Position Title: ASSISTANT MANAGER
 Review Date: JUNE 2010 Individual Conducting Review: J. STEWART

INSTRUCTIONS: This form will be completed annually by the employee's immediate supervisor. Once the review has been conducted, a copy is given to the employee and the original is kept in the employee's file.

Rate the employee's performance relative to time in position by checking the most appropriate rating. Make an explanatory comment to support your rating if necessary, and where possible cite specific examples of behavior that led to the rating. When performance does not meet expectations, list specific goals for improvement and the date you expect them to be achieved.

	Not Applicable	Does not Meet Expectations	Meets Expectations	Exceeds Expectations	Comments
Productivity: The volume of acceptable work produced. Ability to organize and prioritize work; utilize time well and fully meet deadlines.	_____	_____	_____	_____✓_____	
Quality: The ability to complete work accurately and neatly to meet quality standards.	_____	_____	_____✓_____	_____	
Responsibility/Initiative: Acceptance and fulfillment of work assignments, leadership, intelligent decision making.	_____	_____	_____✓_____	_____	
Relationships: The ability to establish and maintain effective relationships with others with whom interaction is required in the performance of the position.	_____	_____	_____✓_____	_____	
Adaptability/Resourcefulness: The ability to adjust to change with a minimum of disruption to productivity. Ability to contribute useful ideas for improved performance of the position.	_____	_____	_____✓_____	_____	
Attendance/Punctuality:					
Absences in this review period: <u>0</u> days					
Days tardy in this review period: <u>0</u> occurrences.					
Supervisory Skills: The ability to get effective results from others.	_____✓_____	_____	_____	_____	
Overall Evaluation	_____	_____	_____✓_____	_____	

Supervisor: _____

Employee: Jamie Whineshack

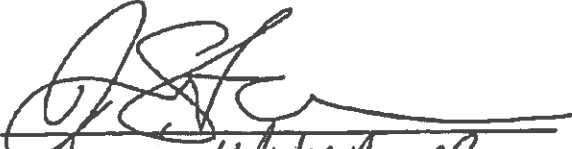

DENIM N' MORE PERFORMANCE EVALUATION FORM

Name: JAMIE WHINESHACK Position Title: ASSISTANT MANAGER
 Review Date: JANUARY 2011 Individual Conducting Review: J. STEWART

INSTRUCTIONS: This form will be completed annually by the employee's immediate supervisor. Once the review has been conducted, a copy is given to the employee and the original is kept in the employee's file.

Rate the employee's performance relative to time in position by checking the most appropriate rating. Make an explanatory comment to support your rating if necessary, and where possible cite specific examples of behavior that led to the rating. When performance does not meet expectations, list specific goals for improvement and the date you expect them to be achieved.

	Not Applicable	Does not Meet Expectations	Meets Expectations	Exceeds Expectations	Comments
Productivity: The volume of acceptable work produced. Ability to organize and prioritize work; utilize time well and fully meet deadlines.	_____	_____	_____✓_____	_____	
Quality: The ability to complete work accurately and neatly to meet quality standards	_____	_____	_____✓_____	_____	
Responsibility/Initiative: Acceptance and fulfillment of work assignments, leadership, intelligent decision making.	_____	_____	_____✓_____	_____	
Relationships: The ability to establish and maintain effective relationships with others with whom interaction is required in the performance of the position.	_____	_____	_____✓_____	_____	
Adaptability/Resourcefulness: The ability to adjust to change with a minimum of disruption to productivity. Ability to contribute useful ideas for improved performance of the position.	_____	_____	_____✓_____	_____	
Attendance/Punctuality:					
Absences in this review period: <u>2</u> days (sick leave)					
Days tardy in this review period: <u>0</u> occurrences.					
Supervisory Skills: The ability to get effective results from others.	_____✓_____	_____	_____	_____	
Overall Evaluation	_____	_____	_____✓_____	_____	

Supervisor: 
 Employee: 



DENIM N' MORE PERFORMANCE EVALUATION FORM

Name: JAMIE WHINESHACK Position Title: ASSISTANT MANAGER
 Review Date: July 2011 Individual Conducting Review: J. STEWART

INSTRUCTIONS: This form will be completed annually by the employee's immediate supervisor. Once the review has been conducted, a copy is given to the employee and the original is kept in the employee's file.

Rate the employee's performance relative to time in position by checking the most appropriate rating. Make an explanatory comment to support your rating if necessary, and where possible cite specific examples of behavior that led to the rating. When performance does not meet expectations, list specific goals for improvement and the date you expect them to be achieved.

	Not Applicable	Does not Meet Expectations	Meets Expectations	Exceeds Expectations	Comments
Productivity: The volume of acceptable work produced. Ability to organize and prioritize work; utilize time well and fully meet deadlines.	_____	_____	_____✓_____	_____	
Quality: The ability to complete work accurately and neatly to meet quality standards.	_____	_____	_____✓_____	_____	
Responsibility/Initiative: Acceptance and fulfillment of work assignments, leadership, intelligent decision making.	_____	_____	_____✓_____	_____	
Relationships: The ability to establish and maintain effective relationships with others with whom interaction is required in the performance of the position	_____	_____	_____✓_____	_____	
Adaptability/Resourcefulness: The ability to adjust to change with a minimum of disruption to productivity. Ability to contribute useful ideas for improved performance of the position.	_____	_____	_____✓_____	_____	
Attendance/Punctuality:					
Absences in this review period: <u>0</u> days					
Days tardy in this review period: <u>0</u> occurrences.					
Supervisory Skills: The ability to get effective results from others.	_____✓_____	_____	_____	_____	
Overall Evaluation	_____	_____	_____✓_____	_____	

Supervisor: 
 Employee: 



DENIM N' MORE PERFORMANCE EVALUATION FORM

Name: JAMIE WHINESHACK Position Title: ASSISTANT MANAGER
 Review Date: July 2012 Individual Conducting Review: J. STEWART

INSTRUCTIONS: This form will be completed annually by the employee's immediate supervisor. Once the review has been conducted, a copy is given to the employee and the original is kept in the employee's file.

Rate the employee's performance relative to time in position by checking the most appropriate rating. Make an explanatory comment to support your rating if necessary, and where possible cite specific examples of behavior that led to the rating. When performance does not meet expectations, list specific goals for improvement and the date you expect them to be achieved.

	Not Applicable	Does not Meet Expectations	Meets Expectations	Exceeds Expectations	Comments
Productivity: The volume of acceptable work produced. Ability to organize and prioritize work, utilize time well and fully meet deadlines.	_____	_____	✓ _____	_____	
Quality: The ability to complete work accurately and neatly to meet quality standards.	_____	_____	✓ _____	_____	
Responsibility/Initiative: Acceptance and fulfillment of work assignments, leadership, intelligent decision making.	_____	_____	✓ _____	_____	
Relationships: The ability to establish and maintain effective relationships with others with whom interaction is required in the performance of the position.	_____	_____	✓ _____	_____	
Adaptability/Resourcefulness: The ability to adjust to change with a minimum of disruption to productivity. Ability to contribute useful ideas for improved performance of the position.	_____	_____	✓ _____	_____	
Attendance/Punctuality:					
Absences in this review period: <u>0</u> days					
Days tardy in this review period: <u>0</u> occurrences.					
Supervisory Skills: The ability to get effective results from others.	✓ _____	_____	_____	_____	
Overall Evaluation	_____	_____	✓ _____	_____	

Supervisor: 
 Employee: 

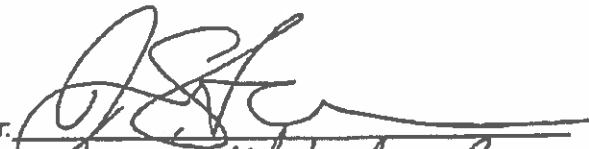
DENIM N' MORE PERFORMANCE EVALUATION FORM

Name: JAMIE WHINESHACK Position Title: ASSISTANT MANAGER
 Review Date: 1/11/12 Individual Conducting Review: J. STEWART

INSTRUCTIONS: This form will be completed annually by the employee's immediate supervisor. Once the review has been conducted, a copy is given to the employee and the original is kept in the employee's file.

Rate the employee's performance relative to time in position by checking the most appropriate rating. Make an explanatory comment to support your rating if necessary, and where possible cite specific examples of behavior that led to the rating. When performance does not meet expectations, list specific goals for improvement and the date you expect them to be achieved.

	Not Applicable	Does not Meet Expectations	Meets Expectations	Exceeds Expectations	Comments
Productivity: The volume of acceptable work produced. Ability to organize and prioritize work; utilize time well and fully meet deadlines.	_____	✓ _____	_____	_____	
Quality: The ability to complete work accurately and neatly to meet quality standards.	_____	✓ _____	_____	_____	
Responsibility/Initiative: Acceptance and fulfillment of work assignments, leadership, intelligent decision making.	_____	✓ _____	_____	_____	
Relationships: The ability to establish and maintain effective relationships with others with whom interaction is required in the performance of the position.	_____	_____	✓ _____	_____	
Adaptability/Resourcefulness: The ability to adjust to change with a minimum of disruption to productivity. Ability to contribute useful ideas for improved performance of the position.	_____	✓ _____	_____	_____	
Attendance/Punctuality:	<p>Absences in this review period: <u>6</u> days (no excuse) Missed over week of work re. "personal problems" - verbal warning given. → arising February 2012</p> <p>Days tardy in this review period: <u>4</u> occurrences.</p>				
Supervisory Skills: The ability to get effective results from others.					
Overall Evaluation	_____	✓ _____	_____	_____	

Supervisor: 
 Employee: Jamie Whineshack

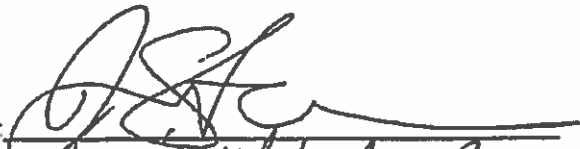

DENIM N' MORE PERFORMANCE EVALUATION FORM

Name: JAMIE WHINESHACK Position Title: ASSISTANT MANAGER
 Review Date: January 2013 Individual Conducting Review: J. STEWART

INSTRUCTIONS: This form will be completed annually by the employee's immediate supervisor. Once the review has been conducted, a copy is given to the employee and the original is kept in the employee's file.

Rate the employee's performance relative to time in position by checking the most appropriate rating. Make an explanatory comment to support your rating if necessary, and where possible cite specific examples of behavior that led to the rating. When performance does not meet expectations, list specific goals for improvement and the date you expect them to be achieved.

	Not Applicable	Does not Meet Expectations	Meets Expectations	Exceeds Expectations	Comments
Productivity: The volume of acceptable work produced. Ability to organize and prioritize work; utilize time well and fully meet deadlines.	_____	_____	_____✓_____	_____	
Quality: The ability to complete work accurately and neatly to meet quality standards.	_____	_____	_____✓_____	_____	
Responsibility/initiative: Acceptance and fulfillment of work assignments, leadership, intelligent decision making.	_____	_____	_____✓_____	_____	
Relationships: The ability to establish and maintain effective relationships with others with whom interaction is required in the performance of the position.	_____	_____	_____✓_____	_____	
Adaptability/Resourcefulness: The ability to adjust to change with a minimum of disruption to productivity. Ability to contribute useful ideas for improved performance of the position.	_____	_____	_____✓_____	_____	
Attendance/Punctuality:					
Absences in this review period: <u>0</u> days					
Days tardy in this review period: <u>0</u> occurrences.					
Supervisory Skills: The ability to get effective results from others.	_____✓_____	_____	_____	_____	
Overall Evaluation	_____	_____	_____✓_____	_____	

Supervisor: 
 Employee: 

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

PLEA AGREEMENT

State of Delaware v. Jamie Whineshack

Case No(s): 10110018901

C.A. No(s): 10-04-0672

HABITUAL OFFENDER ELIGIBLE, Title 11 §4214(a) §4214(b) BOOT CAMP DIVERSION ELIGIBLE:

Title 16, §4763 sentence –previous qualifying drug conviction

Title 21:

School Teacher or Administrator convicted of a crime as described in Title 11, §4101(e)

Title 11, §4120, §4121 – Sex offender registration required

Title 11, §4336 –Sex offender notification required

DUI BAC:
 No BAC

DEFENDANT WILL PLEAD: GUILTY TO:

Count	C.A. No.	Charge (if LIO, indicate and include applicable citation)
1	10-04-0672	Forgery Second Degree (11 Del. C. § 861) (Class G Felony)

Upon the sentencing of the defendant, a *nolle prosequi* is entered on:

all remaining charges on the following charges:

SENTENCE: State and Defendant request PSI Immediate Sentencing
Recommendation/Agreement: State and Defendant agree to recommend:

2 years Level 5 incarceration suspended for 1 year Level 2 probation.

State and Defendant agree to the following:

- Restitution: to Blanche Anderson in the amount of \$670.00
- No contact with
- Other Conditions:



Is this one page the complete Plea Agreement? Yes

DAG Thomas Seaver
print name
[Signature]
signature

DEF. COUNSEL Patrick Zachary
print name
[Signature]
signature

Date Sept. 15, 2010

DEFENDANT Jamie Whineshack 9/15/10
signature date