

# The 2026 Mock Trial Case

## IN THE SUPERIOR COURT OF THE COMMONWEALTH

ALEX CRUZ,  
as representative of the Estate of  
Carter Cruz, Deceased,

Plaintiff

v.

VIC'S VÂPORIUM,

Defendant.

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CIVIL ACTION NO: 24-CV-0068

**NOTE: All characters, names, events, places and circumstances in this mock trial case are fictitious or are used fictitiously. Any resemblance to any person (living or dead), place, thing or event is purely coincidental.**

This case is adapted from a high school mock trial problem from the State of Georgia. The U.S. District Court for the Northern Mariana Islands and the Commonwealth of the Northern Mariana Islands Bar Association gratefully thank Richard Harris, Director High School Mock Trial Program, who shared the case materials and acknowledge the team of writers and editors who produced the original case:

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# **INTRODUCTION**

*This Introduction and the Appendices are of **no legal consequence** in terms of the trial and are **not admissible** for impeachment purposes or for any other purpose. They are provided to inform your understanding of the case materials and provide source information.*

Vaping is an epidemic among American teenagers. While smoking traditional combustible cigarettes among teenagers dropped to 28.9% in 2017, the use of e-cigarette devices for the same age group rose to approximately 20% in 2018, which includes a doubling of reported use in one year. This year's problem seeks to shine a light on the problem and dangers of e-cigarette use amongst teenagers. All of the facts and figures contained in the case materials, including the impact on the body, are from university and government institutions leading the fight against the prevalence of e-cigarette use by minors.

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Carter Cruz was an outgoing, friendly, popular sophomore at Pagan High School (PHS). Unfortunately, like others at PHS, Carter got into vaping. Carter's vaping started with a bit of peer pressure from others, but then as a touch of rebellion, he became part of a growing statistic of today's adolescent population and vaping use. Carter also added to another statistic on the issue when he died on March 19, 2024. The autopsy, performed by Marianas Medical Examiner Dr. Billie/Bill Robinson, showed that Carter had asthma, which was made worse by his vaping. This led to a heart attack and Carter's death.

Alex and Nic Cruz, Carter's parents were devastated, especially after they learned that Carter had actually been vaping since 8th grade. The first time they found out about it was when Carter was suspended from school for three days for having a vape pen at school in February of 2024. Carter's cousin, Kennedy Torres, who is an ICU nurse at the Commonwealth Medical Center (CMC) and had always had a sibling-like relationship with Carter, had long talks about everything and anything, including Carter's suspension.

Carter's best friend, Jess/Jessie Andrews, said that vaping was easy for them to hide and they usually did it outside the watch of family. Jess/Jessie explained how s/he and Carter would go to Vic's Vâporium, a local smoke shop in Pagan, to buy devices and e-liquids. Vic Vâvrick is the inventor of the E-Vâp, a device that was bought out by Maurice Phillipe, a multi-generational tobacco company wanting to get into the vaping business. Josephine/Joseph Winston, the account rep over E-Vâp for Maurice Phillipe, explained how their business practices were not targeted towards advertising to minors and they would never support sales of any tobacco or e-cigarette products to minors.

Carter's death prompted the Cruz family to file a lawsuit against both Maurice Phillipe and Vic's Vâporium. Maurice Phillipe settled their suit with the Cruz family but the suit against the Vâporium continues.

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# **STIPULATIONS**

1. Only references specifically contained in the current case materials are relevant and available for trial as presently stated.
2. All exhibits included in the problem are authentic in all respects, and no objections to the authenticity of the exhibits shall be entertained.
3. Stipulations cannot be contradicted or challenged.
4. The signatures on the witness statements and all other documents are authentic.
5. There are **NO** costume options permitted.
6. The Limited Jury Instructions are accurate in all respects; no objections to the charge shall be entertained.
7. Chain of custody for evidence is not in dispute.

8. The **Introduction** provided is of **no legal consequence** in terms of the trial and **is not admissible** for impeachment purposes or for any other purpose.
9. Exhibits 1 and 2 were made at or near the time by — or from information transmitted by — someone with knowledge, were kept in the course of a regularly conducted activity of a business, organization, occupation, or calling, making the record was a regular practice of that activity, and neither the source of information nor the method or circumstances of preparation indicate a lack of trustworthiness.
10. Exhibit 2 is a fair and accurate copy of the toxicology report produced by Caleb Evans, a toxicologist with the Investigation Division of Forensic Sciences. Caleb Evans is unavailable for this trial, and he was previously deposed by both parties. Neither party had the deposition transcribed.
11. Exhibits 3 and 5 fairly and accurately depict the view or scene each purport to depict.
12. Exhibit 4 is a true, accurate and complete copy of the article appearing on the Marianas News website on Monday, September 25, 2023.
13. Exhibit 6 is a certified copy from the Clerk's Office of the Commonwealth Superior Court.

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## **WITNESSES**

*The following witnesses are available to be called by the parties. Plaintiff witnesses may not testify or be called on behalf of the Defendant. Defense witnesses may not testify or be called on behalf of the Plaintiff.  
All witnesses may be female or male.*

### **For the Plaintiff**

Alex Cruz  
Jess/Jessie Andrews  
Dr. Bill/Billie Robinson, MD

### **For the Defense**

Vic Vâvrick, *Defendant*  
Kennedy Torres, RN  
Joseph/Josephine Winston

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## **EXHIBITS**

*The following exhibits are available for each side to use during trial. These available exhibits are pre-numbered and are to be referred to by the assigned number, as follows:*

- |                            |                                      |
|----------------------------|--------------------------------------|
| 1. .... Autopsy Report     | 4..... <i>Marianas News</i> article  |
| 2. .... Toxicology Report  | 5..... E-Vâp website screenshot      |
| 3. .... Photo of E-Vâp Pen | 6..... Sentence form for Vic Vâvrick |

## Appendix A

### Medical Term Glossary

**Abrasions** = Scrapes

**Acute** = having a sudden onset, sharp rise, and short course

**Amphetamine** = A drug with a stimulant effect on the central nervous system that can be both physically and psychologically addictive when overused. This drug has been much abused recreationally.

**Anterior** = the front of something

**Aspiration** = the act of drawing a substance in or out by suction

**Atraumatic** = undamaged

**Arrhythmia** = a rate or rhythm of the heartbeat that is not normal. It can be too fast, slow, or irregular (not steady). Caused by changes in heart tissue and activity or in the electrical signals that control the heartbeat.

**Avulsion** = the state of something being torn forcefully from a structure

**Alveoli** = the tiny air sacs inside the lungs that take up oxygen when you breathe in. They are located at the end of bronchial tubes in the vascular tree.

**Barbiturates** = class of sedative and sleep-inducing drugs; central nervous system depressants.

**Benzodiazepines** = Valium or Valium-like drugs

**Bilateral** = of, relating to, or affecting the right and left sides of the body or the right and left members of paired organs

**COPD** = Chronic Obstructive Pulmonary Disease; a chronic inflammatory lung disease that causes obstructed airflow from the lungs.

**Cotinine** = an alkaloid found in nicotine

**Discrete lesions** = something that looks different from its surroundings

**Distal** = situated away from the point of attachment or origin or a central point especially of the body

**Edematous** = swollen or puffy

**Endotracheal tube** = A flexible plastic tube that is put in the mouth and then down into the trachea (the airway). The doctor inserts the tube under direct vision with the help of a laryngoscope. The procedure is called endotracheal intubation. The purpose is to ventilate the lungs

**Epicardial** = the inner layer of the pericardium, the sac of tissue that surrounds the heart

**Erythema** = redness, being reddened.

**Gas Chromatography** = A type of automated chromatography (a technique used to separate mixtures of substances) in which the mixture to be analyzed is vaporized and carried by an inert gas through a special column and thence to a detection device. The special column can contain an inert porous solid (in gas-solid chromatography) or a liquid coated on a solid support (in gas-liquid chromatography). The basic aim with GC is to separate each component that was in the mixture so that it produces a different peak in the detection device output, which is graphed on a chart recorder

**Grossly Intact** = totally without abnormality

**Hyoid** = a bone under the jaw just behind the chin

**Infarction** = the formation of an infarct, an area of tissue death due to a local lack of oxygen

**Inferior** = situated below another and especially another similar superior part of an upright body

**Lacerations** = cuts

**Laryngotracheal cartilages** = the cartilage that forms the vocal cords, voice, voice box & windpipe

**Larynx** = the larynx is the portion of the breathing, or respiratory, tract containing the vocal cords which produce vocal sound. It is located between the pharynx and the trachea. The larynx, also called the voice box, is a 2-inch-long, tube-shaped organ in the neck

**Lividity** = skin discoloration, from pooling of blood - blood pools at the lowest point in the body if there is no circulation, i.e. death

**Metabolite** = the intermediates and products of metabolism

**Mucosa** = mucosa is moist tissue that lines particular organs and body cavities throughout the body, including your nose, mouth, lungs, and gastrointestinal tract. Glands along the mucosa secrete mucus (a thick fluid)

**Myocardial infarction** = heart attack

**Myocardium** = tissue of the heart

**ng/mL** = nanograms per milliliter

**2019-nCoV** = Covid-19 coronavirus

**Nonobstructive** = not causing obstruction of a bodily passage

**Obstructive lesions** = any lesion that is in the way of something, like a tumor in an airway

**Opiate** = A medication or illegal drug that is either derived from the opium poppy, or that mimics the effect of an opiate (a synthetic opiate). Opiate drugs are narcotic sedatives that depress activity of the central nervous system, reduce pain, and induce sleep.

**Oropharynx** = the mouth and back of the throat

**Overt** = open to view

**Palpable masses** = any swelling, which is a mass that you can feel

**Palpably** = capable of being touched or felt

**Parenchyma** = the functional tissue of an organ, as opposed to the connective and supporting tissue

**Palpation** = the act of touching or feeling something

**Pleural, pericardial, or peritoneal cavities** = spaces inside the abdomen that contain all of the major organs

**Posterior** = the back of something

**Postmortem** = after death

**Proximal** = toward the beginning, the nearer of two (or more) items. For example, the proximal end of the femur is part of the hip joint, and the shoulder is proximal to the elbow. The opposite of proximal is distal.

**Pulmonary** = the respiratory system

**Rigor mortis** = the stiffness occurring in dead bodies

**Septum** = a wall dividing a cavity or structure into smaller ones. Ex., the wall between your nostrils.

**Subdural** = situated or occurring beneath the dura mater or between the dura mater and the arachnoid membrane

**Supine** = lying on the back with the face upward

**Tetrahydrocannabinol** = THC—the drug found in marijuana

**Thromboemboli** = a blood clot that develops in one part of the body and lodges in another and then becomes larger as more blood clot forms on top of it

**Thyroid** = a gland in the lower portion of the neck

**Trachea** = windpipe

**Vascular** = of or relating to a channel for the conveyance of a body fluid (as blood of an animal or sap of a plant) or to a system of such channels

**Vascular tree** = the branches of vessels throughout the lungs that carry oxygen

**Ventricle** = the two main chambers of the heart

## Appendix B

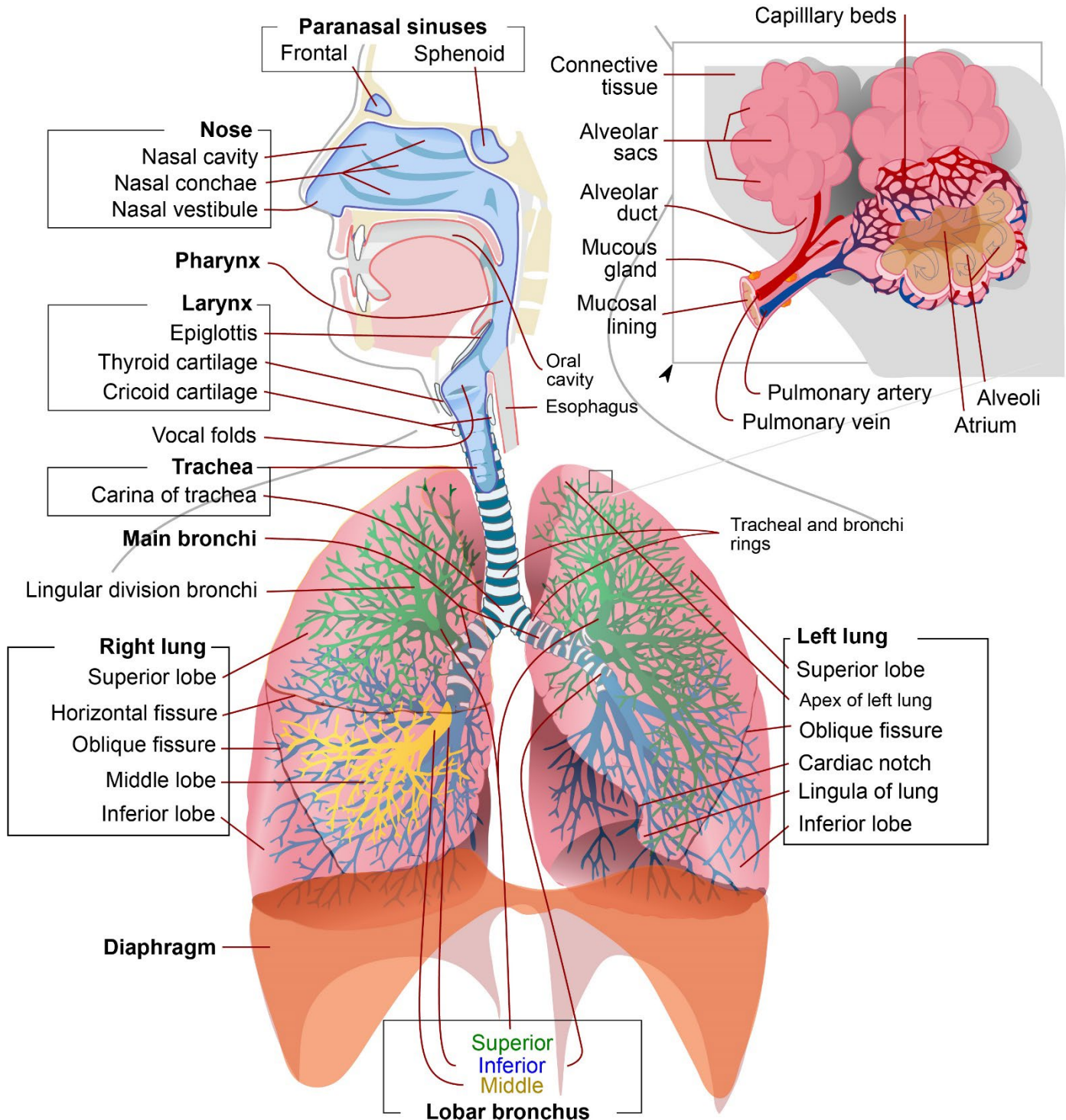
### Sources of Information Used in Case Materials

- 5 Vaping Facts You Need to Know, Johns Hopkins Medicine, <https://www.hopkinsmedicine.org/health/wellness-and-prevention/5-truths-you-need-to-know-about-vaping>
- Cause and Manner of Death, Snohomish County, WA, <https://snohomishcountywa.gov/806/Cause-Manner-of-Death>
- E-cigarette or Vaping Product Use-Associated Lung Injury (EVALI), *Yale Medicine*, <https://www.yalemedicine.org/conditions/evali/#:~:text=EVALI%20stands%20for%20e%2Dcigarette,e%2Dcigarette%20and%20vaping%20products>.
- Hypertrophic cardiomyopathy via the Mayo Clinic, <https://www.mayoclinic.org/diseases-conditions/hypertrophic-cardiomyopathy/symptoms-causes/syc-20350198>
- Know the Risks, US Surgeon General, <https://e-cigarettes.surgeongeneral.gov/knowtherisks.html>
- Outbreak of Lung Injury Associated with the Use of E-Cigarette, or Vaping, Products, Centers for Disease Control and Prevention, [https://www.cdc.gov/tobacco/basic\\_information/e-cigarettes/severe-lung-disease.html](https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html)
- Popcorn Lung: A Dangerous Risk of Flavored E-Cigarettes, American Lung Association, <https://www.lung.org/blog/popcorn-lung-risk-ecigs>
- Pulmonary system diagram in Appendix C: [https://upload.wikimedia.org/wikipedia/commons/5/5e/Respiratory\\_system\\_complete\\_en.svg](https://upload.wikimedia.org/wikipedia/commons/5/5e/Respiratory_system_complete_en.svg)
- The Real Cost, US Department of Health and Human Services, <https://therealcost.betobaccofree.hhs.gov/>
- The Rise and Fall of Tobacco Control Media Campaigns, 1967–2006, *American Journal of Public Health*, (August 2007), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1931454/>
- The Vaping Epidemic in Adolescents, *The Journal of the Missouri State Medical Association*, (Jan-Feb 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7023954/>
- What Does Vaping Do To Your Lungs?, Johns Hopkins Medicine, <https://www.hopkinsmedicine.org/health/wellness-and-prevention/what-does-vaping-do-to-your-lungs>

## Appendix C

### The Pulmonary System

This diagram is being offered to assist teams in understanding the pulmonary system. It is not an exhibit and may not be used during trial.



IN THE SUPERIOR COURT OF THE COMMONWEALTH

**ALEX CRUZ,**  
as representative of the Estate of Carter  
**Cruz, Deceased,**

Plaintiff

**V.**

# VIC'S VÂPORIUM

**Defendant.**

**CIVIL ACTION NO: 24-CV-0068**

## COMPLAINT

COMES NOW ALEX CRUZ, as representative of the estate of Carter Cruz, Plaintiff in the above-styled civil action, and alleges as follows:

1.

Defendant Vic's Vâporium is a corporation incorporated in the Commonwealth and located on the island of Pagan. Vic Vâvrick is the registered agent of Vic's Vâporium and is a resident of the Commonwealth and Pagan. S/He may be served with a copy of this complaint within the confines of the Commonwealth. Jurisdiction and venue are hereby proper in this Court.

2.

Carter Cruz, the Deceased, was, at the time of death, fifteen years old. Carter Cruz was, at all times relevant to this Complaint, a minor child under the laws of the Commonwealth. Carter Cruz was a healthy teenager whose life prematurely and tragically ended due to injuries caused by his use of an electronic cigarette (“e-cigarette”) sold by Vic’s Vâporium.

3.

Studies have shown that the prolonged use of e-cigarettes can cause serious injury and/or death. Because of that information, law prohibits businesses from selling such products to individuals under age 21. Moreover, studies have also shown that e-cigarettes are dangerous for anyone under age 25, making the marketing and sale of fruit-flavored e-cigarettes even more dangerous.

4.

Defendant Vic's Vâporium marketed and sold e-cigarettes with fruit-flavored cartridges to target buyers who were under age 21, including Carter Cruz.

5.



Defendant Vic's Vâporium had a duty to Carter Cruz under the laws of the Commonwealth to refrain from soliciting the purchase and use of e-cigarettes to underage minors, such as Carter Cruz.

6.

Defendant Vic's Vâporium breached that duty when it marketed and sold e-cigarettes to Carter Cruz with knowledge that he was underage under the laws of the Commonwealth.

7.

E-cigarettes contain nicotine, the same chemical that makes traditional tobacco products addictive. Using fruit-flavoring entices young people to use the products and creates a greater likelihood of addiction in young people. Vic Vâvrick designed and then sold the product E-Vâp to Maurice Phillipe, where it would eventually become part of Maurice Phillipe's flagship line of e-cigarettes.

8.

The sale of e-cigarettes and vaping liquids to Carter Cruz by Vic's Vâporium was the actual and proximate cause of Carter Cruz's death. The sales of numerous e-cigarettes and vaping liquids, which may have contained nicotine, by Vic's Vâporium to Carter Cruz, without reasonable care, over time contributed to Carter Cruz's death.

9.

Defendant Vic's Vâporium had a duty to Carter Cruz under the laws of the Commonwealth to prevent Carter Cruz's purchase of e-cigarettes and breached that duty which directly and proximately caused Carter's death.

10.

The sale of an e-cigarette to Carter Cruz, who was only 15 at the time of his death, was negligence per se because of the violation of 6 CMC § 3110.

11.

Defendant Vic's Vâporium failed to exercise that degree of care which is used by ordinarily careful persons under the same or similar circumstances.

WHEREFORE, Plaintiff prays the following:

- (a) That summons issue and Defendant be served with a copy of this complaint;
- (b) That Plaintiff have a jury trial on all issues; and
- (c) That Plaintiff be awarded damages in an amount to be determined by a fair and impartial jury.

This 28<sup>th</sup> day of August, 2024.

Dawn Jones, Esq.

By: **Dawn**  
The Firm of Dawn Jones, LLC  
Attorney for Plaintiff

**IN THE SUPERIOR COURT OF THE COMMONWEALTH**

**ALEX CRUZ,**  
as representative of the Estate of Carter  
Cruz, Deceased,

Plaintiff

**V.**

# VIC'S VÂPORIUM

**Defendant.**

**CIVIL ACTION NO: 24-CV-0068**

DEFENDANT'S ANSWER

COMES NOW Defendant, Vic's Vâporium, answers the complaint in the above-styled case, and shows the following:

1.

Defendant admits the allegations in Paragraph 1 of the complaint.

2.

Defendant denies the allegations in Paragraph 2 of the complaint.

3.

Defendant denies the allegations in Paragraph 3 of the complaint.

4.

Defendant denies the allegations in Paragraph 4 of the complaint.

5.

Defendant denies the allegations in Paragraph 5 of the complaint.

6.

Defendant denies the allegations in Paragraph 6 of the complaint.

7.

Defendant denies the allegations in Paragraph 7 of the complaint.

8.

Defendant denies the allegations in Paragraph 8 of the complaint.

9.

Defendant denies the allegations in Paragraph 9 of the complaint.

10.

Defendant denies the allegations in Paragraph 10 of the complaint.

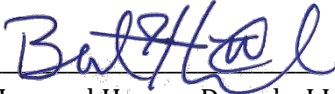
11.

Defendant denies the allegations in Paragraph 11 of the complaint. By way of further answer, Defendant alleges that the tortious acts of Maurice Phillipe, formerly a party of this action, were the sole and proximate cause of Carter Cruz's injuries.

WHEREFORE, Defendant Vic's Vâporium, having answered Plaintiff's complaint for damages, demands a judgment in his/her favor and demands Plaintiff's complaint be dismissed with attorney's costs attributed to Plaintiff.

This 10th day of September, 2024.

Norbert Hummel, Esq.

By:   
Hummel Haynes Daniels, LLC  
Attorney for Defendant

# Statement of Alex Cruz

1. My name is Alex Cruz. Carter was my oldest child and his death from that awful vaping stuff still stings every single day. He wouldn't have gotten involved with it if the vaping manufacturer and the store weren't such predators, trying to hook kids onto their poison. I know that Carter's death and this lawsuit aren't going to change anything but maybe it will get some of the others out there who sell this garbage to consider the real toll they're taking on people's lives.

2. I am originally from Guam but I got a full tennis scholarship at the University of Pagan, and it was too good of an offer to pass up. I moved here the summer before college and have lived here ever since. A few years after college, I met my spouse, Nic, during a particularly competitive Trivia Night at Thai House, and, once I got over her/him beating me in the final round, we became pretty much inseparable. A year after we were married, our oldest, Carter was born, and then just one year after that, we had Preston. Everyone thought they were twins because they were so close in age. People often commented that we looked like a sitcom family, which I thought was a bit of a stretch, but we were a close family. I am an only child, and with my extended family far away, I felt really lucky to have such a loving immediate family. Of course, I don't think anyone would describe me as "lucky" now.

3. Carter was the glue in our family. I swear, he practically came out of the womb talking and cracking jokes and bringing people together. He seemed like he could sense when someone was having a particularly bad day and would tell the corniest jokes or do a silly impression just to make you smile. As a Senior Account Director at the Guam Banking Corporation, my job could get stressful at times. His loving attitude really helped on those long days at work. Sometimes, he would just come up to me and hug me, even as a teenager. He was really protective of Preston. He seemed to take everything in stride. For example, he was really excited about trying out for soccer in the eighth grade, but, unfortunately, he takes after Nic when it comes to athletic ability, and he didn't make the team. He was bummed about it for maybe an hour before he started making jokes about how American soccer is a poor imitation of the real thing anyway, and that if he wanted to do that much running, he would take up cross country. Pretty soon, he was everyone's favorite drum major in the marching band, because he had such charisma and style.

4. My younger cousin Kennedy also lives in Pagan. S/He is a nurse at the Commonwealth Medical Center in the ICU ward. Carter and Preston LOVED Kennedy. S/He took on the cool aunt/uncle role for the boys and was always around to help out, picking them up from school when s/he wasn't on a shift and did a lot in the early years to help me and Nic get through the fevers and bumps and bruises. With two boys a year apart running around the house, we called on Kennedy a lot.

5. When Carter got to high school, he joined the mock trial team and really seemed to come into his own. He was becoming a dynamic public speaker – I think he could have gone into acting or politics or even sales, he was just that fun to watch! People really wanted to be around him. Plus, he was really smart. He's got a July 24 birthday and skipped the second grade, so he was always on the younger side

of his grade. He was always in the gifted programs and especially loved math. He was so proud when he was placed into calculus with juniors and seniors his sophomore year. He was just a great kid and he had so much to look forward to. I think that's sometimes the hardest part of all of this – knowing that his life was only going to get better and that he had so many more things that he should have gotten to experience.

6. His best friend in the world was Jess/Jessie Andrews. They were pretty much inseparable. Over the last couple of years, his friend group started changing a bit. He was hanging around with people from all different groups – the soccer team, mock trial, marching band. As I mentioned before, he really had a way of bringing people together. One name I heard often was Ty Henderson, who has a reputation for being a bit of a troublemaker, but Carter liked him/her, and I trusted Carter's judgment. Plus, "trouble" in their friend group meant things like getting in trouble for talking too much in class or things like that. I think teachers are just way too strict these days – kids will be kids!

7. Carter loved to hang out with Kennedy too. They would hang out like they were siblings, even though Kennedy was 17 years older than Carter. Carter would tell him/her everything, which I adored. It gave Carter a safe adult to talk to that wasn't mom or dad. I know this has been as hard on Kennedy as it has the three of us. Kennedy did a great job talking to Carter about things that may have been awkward with me and Nic. S/He always filled us in on things we needed to know about.

8. About a month before he died, I noticed that Carter's personality was changing a bit. He seemed moodier and more withdrawn. I chalked it up to hormones and being a teenager. Once, in mid-February I think, we got a call from the principal saying that Carter had been caught smoking a vape pen by the dumpsters outside the cafeteria. I talked to him about it, and he explained that it was his first time trying it, and that he only did so because of how sweet it smelled. Carter always had a huge sweet tooth – when he was in elementary school, we could always get him to take his allergy medicine because it was strawberry flavored, and he usually washed it down with juice! Anyway, he explained that all the kids at school were really into e-cigarettes and these vaping devices, and he usually ignored them, but that day, one of his friends was smoking one that smelled like mangoes and mint or something, and he couldn't resist. He said that all of the kids said that the vaping pens are safer because there's no tobacco or any of the other chemicals and toxins that are in cigarettes, just the juice. He said that, "most of the vape juices don't have nicotine and it's illegal for minors to get the ones with nicotine." I know he talked to Kennedy about it before he came to us. I'm sure Kennedy told him the dangers of vaping, especially at a young age. Kennedy said he seemed to understand. He promised me that it wouldn't happen again, and that he would stick to his gummy worms and Sour Patch Kids the next time he had a sugar craving. We were worried but didn't want to make too big of a deal about it since he seemed to get it on his own, especially after talking to Kennedy. Regardless, we took away his PS4 for a couple of weeks and I thought that would be the end of it.

9. Unfortunately, it wasn't. He started to develop a really bad cough in early March that he couldn't seem to shake, and no medicine helped. I also noticed that he was losing a lot of weight. Finally, one

81 night when he was coughing so badly that his eyes were watering and he was having difficulty  
82 breathing, we took him to Children's Healthcare of Atlanta at Pagan. They did some chest scans and  
83 found a lung infection. He ended up in the hospital for three nights and they gave him breathing  
84 treatments to take at home. Of course, this was as all of the Covid illnesses were starting to show up  
85 in the US, so we were worried that it may have been related to that. After being reassured by the  
86 nurses and doctors that he didn't have Covid, he was released. We were massively relieved. The  
87 breathing treatments they sent him home with seemed to work for a few days, and he went back to  
88 school just in time for them to be shut down.

89  
90 10. [March 19] was the worst day of my life. Carter was in good spirits that morning. While I made  
91 breakfast, he told me about an upcoming math test and that he'd started thinking about running for  
92 class president. He even had a slogan already – "No Need for A Slogan – Just Vote for Carter!" I told  
93 him it needed some work and he laughed and then went up to his room to log in to school. I think he  
94 was planning to hang out with his friends for the afternoon after he was done with classes. This was  
95 the week after the schools were shut down. I wasn't thrilled with him being out in public with everyone  
96 but figured he was hanging out with Jess/Jessie and they are around each other so much, he was  
97 probably fine. He got home late and said that his cough had come back and he was going to go to bed  
98 early to rest. He smiled at me and said "Good night, Mom/Dad. I love you," and then crossed his eyes  
99 at me, which he loved doing. I told him I loved him too, but I am embarrassed to say that Nic had  
100 gotten me hooked on "Real Housewives of the Guam" and I don't even think I really looked at him  
101 closely before he went to sleep. Kennedy was there for dinner after a pretty rough shift and was trying  
102 to unwind at the table over dinner. I don't know if s/he noticed anything off about him. S/he did ask  
103 when his cough had come back and I said that I hadn't heard it until tonight.

104  
105 11. After the show was over, Kennedy left and I washed my face and then went to check on him  
106 before I went to sleep. At first, it looked like he was sleeping normally, but when I got closer, I could  
107 tell something was wrong. He was clammy when I put my hand on his forehead, and a moment later,  
108 I realized he wasn't breathing. I started screaming. Nic rushed in and tried to give him CPR. But it was  
109 too late. I called Kennedy to come over and check on him and she told me to call 911. By the time the  
110 EMTs arrived, he was already gone. Kennedy had offered to go through Carter's room because it was  
111 difficult for me. S/He found an E-Vap in his room and showed it to me.

112  
113 12. The Medical Examiner's investigation and autopsy found that Carter had asthma. We didn't know.  
114 Except for the recent issues, he never had problems with breathing or got out of breath doing anything.  
115 He wasn't keen on running but that's Nic's side of the family coming through. I'm certain that vaping  
116 stuff made his asthma kick in and that's what killed him.

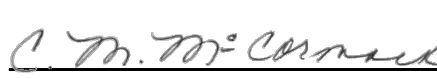
117  
118 13. Our family will never be the same. I cry every single day. Nic blames her/himself for not knowing  
119 that Carter was still smoking. But it wasn't his/her fault. It's Maurice Phillippe's fault, the manufacturer  
120 who made this junk and marketed their vaping products to Carter, even though he was just a  
121 sophomore in high school! He didn't even have his learner's permit yet, but that creep Victor from

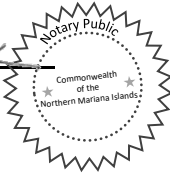
122 Vic's Vâporium sold that garbage to our kids. Even aside from Vic's Vâporium, it seems like these big  
123 tobacco companies generally targeted kids like Carter. Preston showed us Carter's social media  
124 profiles before we deleted them all. We would occasionally check Carter and Preston's accounts, but  
125 didn't want to be too overbearing by checking all the time because we trusted them. I could not believe  
126 how many advertisements there were from vaping companies all over pages designed for teenagers –  
127 on the pages for games they loved, teen movies, shown all over the pages of "influencers," just  
128 everywhere. It was the same thing when we went to clean and close out his email account. There were  
129 tons of social media campaigns from vaping companies, including Maurice Phillipe, and even a  
130 promotional ad on one with a coupon from Vic's Vâporium as the "premiere supplier" of E-Vâp and  
131 Vic's Vog. I even took a picture of one of the ads with my phone. Because of them, the only thing I  
132 have to live for now is my family and making sure that no other parent ever has to experience this  
133 pain. I wouldn't wish it on my worst enemy.

**Alex Cruz**

Alex Cruz

SIGNED AND SWORN to me on April 2, 2024.

  
C.M. McCormack, Notary Public



**WITNESS ADDENDUM**

I have reviewed this statement, given by me on the date above, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed,

Alex Cruz  
Alex Cruz

Morning of Trial  
Date



# Statement of Jess/Jessie Andrews

1. My name is Jess/Jessie Andrews. I'm a sophomore at Pagan High School. I am currently 16 years old. I'm not originally from Pagan. I moved here when I was nine. My parents were both military. I guess you could say I'm a "Coast Guard Brat." Is that a thing? They had me kind of late in life. I've heard them say I was a "surprise," whatever that means. By the time I was nine, my parents retired from the military and we moved from Fort Richardson in Anchorage, Alaska to this sweltering island that we now call home. This is where my parents grew up and met. Nowadays, my parents run a restaurant called Guerrero's Goodies, a block off the Pagan Paseo. It's a comfort food, meat-and-three type of place. It's only open for breakfast and lunch, but it's always packed. They bought it from the Guerreros who ran it for like 30 years – my dad used to cut old man Guerrero's grass when he was growing up. The Guerreros decided to retire to the wilderness of Alaska, so they sold it to us. I guess we kind of switched places, didn't we? The restaurant is actually right across the street from Vic's Vâporium where we used to buy vape liquid...well, I guess we'll get to that in a minute.

2. I don't have any siblings, and although my parents have family here, there aren't any cousins my age. I'm also not like your typical "Coast Guard Brat" because I am shy, and I don't make friends all that easy. So when we moved here, I was pretty lonely. We moved here at the beginning of the summer, so I spent the whole time by myself. Like I said before, my parents are a little older, and they were tied up with running the restaurant. I spent a lot of time playing *The Last of Us* on my PlayStation 3 by myself. But, when I finally started school after the longest summer ever, I met Carter on my first day. He immediately took me under his wing. We bonded over *The Last of Us*. I remember us meeting on the bus. Carter got on the bus after me and sat in my seat. I was looking through my *Gaming Monthly* magazine at their feature article on *The Last of Us* when Carter sat down. He immediately said, "you play *Last of Us* too?" The whole way to school we talked about strategies and levels we had gotten to already. We also found out that we were in the same class! We actually got in trouble our first day because we kept talking, even in class. My mom was so surprised when she got an email from the teacher that I had gotten a warning for talking. I had never gotten in trouble before! And definitely not for talking.

3. After that day, Carter and I were BFFs. We joined the band together in middle school, (#drummajorsforlife!) and decided to try soccer in eighth grade. Neither one of us were any good at soccer. In fact, we were comically bad. Turns out, I have the reflexes of a sloth. Carter was pretty light on his feet but would get really winded if he had to run from midfield to the goal even more than one time. When we started high school, we joined the marching band, of course, and Carter joined the mock trial team. Carter really loved having a captive audience. He tried to get me to join, but, even though I've come out of my shell a lot, I have not come out that much. But, I found out I could be on the team and not speak at all, so I joined as the timekeeper. Practices were always such a blast with Carter always keeping us laughing with his witness impersonations. He won best witness this past season in all the rounds he competed. He really was the best witness. I think if he had gotten to go to the Nationals, he would have been the best there too.

40

41 4. The first time we vaped was in eighth grade. Even though we didn't make the soccer team, we  
42 became friends with a few of the players. One weekend the goalie, Ty Henderson, invited us over to  
43 hang out for the afternoon. Ty was definitely considered one of the in-crowd people in eighth grade,  
44 so Carter and I gladly accepted the invitation because we definitely wanted to be a part of the in-  
45 crowd. So, while we are hanging out by Ty's pool, Ty pulls out this little pen and put it in his mouth.  
46 And then this big cloud of smoke comes out of his mouth that smelled like strawberry Starburst or  
47 Skittles. Carter and I just stared. Then Ty said, "Do you want to try it?" We didn't really know what to  
48 say or do. I asked what it was. Ty told me that it was a vape pen with strawberry liquid vapor in it.  
49 Carter asked if it was like cigarettes. Ty laughed and said no, that it was like water, and then laughed  
50 and said it was safe. So, we both tried it. At the time, it really did seem harmless. It didn't hurt – it  
51 didn't even make us cough - and the flavor was like liquid candy.

52

53 5. The summer before freshman year, we hung at Ty's house pretty much every Saturday. Ty's mom  
54 is single and works all the time, so we could be pretty independent without her around. Ty also has an  
55 older sister who had just graduated from high school. If we gave her money, she would go get us vape  
56 liquid. But when summer ended, she left for college in another state, so I guess you could say we lost  
57 our supplier. After a few weeks of her being gone, we were really starting to miss vaping. One day,  
58 maybe like a month into school, Carter and I met up at lunch and he was really excited because he said  
59 he had some big news. Carter used to get pretty excited about just about anything –he really was just  
60 like that...just the littlest things made him so happy... he was just so happy...I'm sorry.... I just need a  
61 minute.

62

63 6. Thank you. What was I saying? Oh, yes. So, Carter comes up to me at lunch all excited. Just  
64 grinning like a fool. Carter was really smart, so he was in advanced math with the juniors. He told me  
65 that while he was in class that day, he could smell someone vaping the strawberry vape. He kept  
66 looking around the room and spotted a group of three guys in the back of the class, and saw them  
67 secretly passing the pen – and vaping right there in class! So, after class he followed them down the  
68 hall and eventually out the back side of the building. There, the juniors met up with a bunch of seniors  
69 and they were all vaping! All of them – right there at school. So, Carter, who was always so brazen,  
70 just walked right up to them and asked them where to get the vape. One of the seniors, I forget his  
71 name, Todd or Tom, or something like that, told Carter all about Vic's Vâporium. Todd or Tom, told  
72 Carter that the clerks at Vic's Vâporium would pretty much sell vape to anyone if you could get a  
73 passable fake ID. So, Carter asks where to get the fake. Turns out, Todd or Tom was making a killing  
74 selling fake IDs. \$15 each. Carter and I put our order in by the end of the week, and we had fake IDs  
75 by the next Friday night. You got to choose your name. I wanted mine to be Joel/Ellie Miller, but Carter  
76 talked me out of it. I decided to go with Blair Smith. I had to memorize everything on it. Luckily it was  
77 an Alaska ID, so the city and zip code were easy for me.

78

79 7. After we had IDs, the rest was pretty easy. Although, the first time we went to Vic's Vâporium to  
80 buy vape liquid, we were both so nervous. I was so scared that one of my parents were going to come

walking in there picking up a last-minute I-don't-even-know-what for the restaurant, but they didn't. It was just like the Tom/Todd guy said. We walked right up to the counter, and asked for the strawberry. The clerk got it down from behind the counter, asked to see our IDs, and rang us up. We walked out, and felt like we were on top of the world!

8. I don't really think I ever saw any advertising for vape pens, or liquids or vaping in general. Like I said, we found out about vaping through Ty. Although, now that I am thinking about it, I do think that after we started going to Vic's Vâporium, I think I do remember seeing some ads on FaceTube about the different flavors. I think Vic had some kind of geofence or ad service tracking thing that noticed when we came into the store because as soon as we walked in the door, we would get a text message welcoming us to the Vâporium and an ad for E-Vâp would be at the top of my Autogram Feed.

9. After we had bought vape pens and liquid at Vic's Vâporium a few times, the clerk stopped asking for our IDs. We actually kind of started talking to Allison more and more. She would recommend new flavors that had come in, or tell us about the latest vaping products. I guess she vaped too, although I never saw her doing it. Not long after we started going there, Allison was arrested for selling THC laced liquids or oils on the side at Vic's. Vic's was hit with a citation from the county and had to pay a \$750 fine and might have to do some kind of community service. After that, it was pretty hard for us to buy stuff from there. Thankfully, we had enough older friends who would go with us to buy it.

10. At first, we only vaped at home, when our parents weren't there, but eventually, we got braver and started vaping at school. It's actually pretty easy to get away with it most of the time. Kids are always passing vape pens back and forth in classes. The trick is to know what class that you can do it in. We learned never to do it in Ms. Rieke's class. Ok, it took two or three times for us to learn that. I got caught once. Carter got caught in her class twice – and once in the bathroom. We pretty much did it in the bathroom every time we were in there – so between every class. Carter only got caught in Ms. Rieke's room because he started coughing, like uncontrollably. The first time it happened, back in around Valentine's Day, I thought he must have gotten something caught in his throat. When he was coughing, the vape pen fell out of his lap and onto the floor. Ms. Rieke moved with lightning speed to pick it up and before I knew it, Carter was on his way up to visit Principal Dillard. Carter was suspended for three days. The second time it happened though, a few weeks later, I got kind of worried when Carter started coughing again. It seemed worse...like a hacking cough. I had no idea that it was a death rattle.

11. Around the first of March, Carter had lost a bunch of weight and was coughing all the time. He had gotten really pale and couldn't keep his breath. He said that vaping made it worse, so he stopped. His parents took him to the doctor and they found out about the lung infection. It all happened so fast after that. A week later, my best friend was gone. Apparently, Carter had been using liquids with nicotine in them. I never used nicotine liquids because I didn't want to get addicted to it. My uncle died of lung cancer from smoking his whole life and I didn't want to deal with that.


12. I've heard of kids putting THC into their vape pens, adding it to some of their liquids. I don't really know anything about how that works or how to do it. Some people get into mixing liquids and stuff and I guess you can do it then? I know you can buy liquid with it inside from people like Allison, but I wouldn't know where to get it now. I tried it one time at Ty's house and it was horrible. It gave me a bad headache and I felt sick for a couple of days. Carter didn't fare any better. But Carter did tell me he was adding a little bit of it to his liquids to help with the chest pain from the coughing and shortness of breath. He was really struggling sometimes and said the THC helped take the edge off. I never saw him do it or anything but I could tell it did help him when he puffed with it.

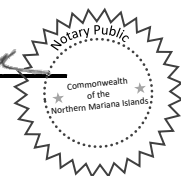
13. One time in freshman year, right after we had gotten the fake IDs we were vaping on Carter's parents' back porch. His parents had gone out to see a movie, so we were all alone. Or so we thought. Carter's cousin Kennedy came by the house to drop off something for his mom. S/He saw us on the back porch and came out to say "hi". And we were caught. S/He lectured us forever about how unhealthy vaping was and what the side effects were. Kennedy is an ICU nurse at the hospital and we understood where s/he was coming from. S/He was actually pretty cool and fun to hang out with. But with this, we didn't listen of course. We weren't really "smoking" with nicotine or anything, just the flavored water vapor. Well, as far as I knew apparently. I guess Kennedy never told Carter's parents because he never got in trouble. I don't think his parents knew until we found out about the infection.

14. Carter was my best friend. It kills me how he was feeling so bad in the last few months. We really thought that since we weren't really "smoking," we were fine. Even when Carter was using nicotine additives, it was still better than inhaling all of the stuff that goes into a cigarette. Nothing was burning in our lungs, just the water vapor. I feel bad that we never really listened to Kennedy about all of this. I mean, s/he's not some parent just coming down on us, but a nurse who deals with this stuff all the time. Since Carter died, I have had second thoughts about what I'm doing. The vaping isn't all that fun anymore; the thrill is gone. I haven't been back to Vic's since then either. I can't stand that place now and feel like s/he scammed us in a way. S/He's a freaking adult...aren't they supposed to protect kids like us? Why would s/he sell us stuff that can kill us?

## Jess/Jessie Andrews

SIGNED AND SWORN to me on March 24, 2024.

  
C.M. McCormack, Notary Public



#### WITNESS ADDENDUM

I have reviewed this statement, given by me on the date above, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed,

Jesse/Jessie Andrews

Jess/Jessie Andrews

Morning of Trial

Date

# Statement of Dr. Billie/Bill Robinson

1. My name is Billie/Bill Robinson. My parents believed that you should be named what they were going to call you, so my first name isn't a nickname. That's just my name. I grew up on Saipan, and like a lot of children, I think I always wanted to be a doctor. I got a scholarship to Emory University. I earned a Bachelor's Degree in History, in which an area of study I really enjoyed was on early Colonial economics surrounding the emerging tobacco industry in the areas of North Carolina and the Chesapeake region in the 1700s, and Biology before attending medical school at Emory, as well. After earning my medical degree, most people just started calling me Dr. Billie/Bill.

2. When I was in medical school, I really started to have an aptitude for pathology. I kind of stumbled upon it, really. During medical school, I really expected to struggle in the dissection lab section and the internal medicine rotation, but I managed to stand out. I'm still not sure how this happened. I wasn't particularly skilled in studying anatomy in undergraduate school when compared to other courses in my biology major. Maybe it was because I struggled in the weed-out courses, but truly tried to learn the material rather than just get a good grade. When I got to this part of medical school, I really expected to just be an okay student in these areas, because let's be honest, I was really just trying to graduate. When my professor in the dissection lab came into class just before spring break to talk about how much improvement was going to be required from most of the class, I was terrified. Surely, I was going to need a lot of improvement, even though I had been working very hard and thought I was getting better. Imagine my surprise when I checked my marks later that day and learned that I was near the top of the class in this subject matter.

3. It was during the 1980s that the rise of anti-tobacco campaigns really started to flourish. The tobacco companies had volunteered to limit television and radio advertising in January 1970 to avoid having any anti-tobacco ads air as well. But the use of tobacco reached its peak in the early 1980s. Having studied the economics and history of tobacco in the early stages of the American Colonies, I was interested in the impacts of this fight. While the economic benefits to the big tobacco companies were obvious, the public health toll from their products was harder to envision. But that public health toll was great and it's a fight that the medical field has been waging for decades. Cigarette use has been declining for the past several years, which is exactly what we need. However, the new prevalence of vaping has taken off in the past few years, which looks to reverse the gains we've made.

4. After medical school, I had to complete a residency program, and it was in my residency in pathology that my comprehension of the subject matter began to stand out even more. In the last year of my residency, I had the unique opportunity to work for the Chief Medical Examiner for the Marianas. Getting that year of experience was valuable, and it propelled me into a job as an Assistant Medical Examiner for about 10 years before my mentor retired. Then, I got the job as Chief Medical Examiner, a position that I've held ever since. I've been licensed to practice medicine in the Commonwealth since first passing my boards about halfway through my residency. Over the course

of my career, I've completed over 2,000 autopsies and I've testified in Superior Court as an expert in forensic pathology about 200 times.

5. As a medical examiner, my chief job is to complete autopsies to determine the cause of death as is required by law. There are two factors to this determination. The "manner of death" can be classified as one of five categories: natural deaths, accidental deaths, suicide, homicide, and undetermined. Natural deaths are caused solely by disease or the natural process. If the death is hastened by an injury or other mitigating factor, it cannot be considered "natural." Accidental deaths are a result of an inadvertent chance happening, something completely unplanned and out of control of the decedent without an action by another. Homicides are a result of another person's actions that directly cause the death of another. Homicide includes murder, but not all homicides are murder. An unintentional action by another that causes a death is homicide. Legal authorities have the discretion on how to prosecute a homicide do so as "murder," "manslaughter," "justified," etc.

6. The "cause of death" is what it sounds: What was the direct cause of death? The cause of death and manner of death are separate. A gunshot wound (cause of death) can be accidental, suicide, or homicide. In an investigation into the cause of death, we have to find any chain of events that lead to the death of the individual. For example, a patient involved in a physical altercation 10 years ago may have caused severe injury to the chest cavity, causing the patient to develop an arrhythmia. If the patient suffers a heart attack due to that arrhythmia, since the arrhythmia was not natural to the patient but caused by another, the manner of death would be classified as a homicide. Whether or not the homicide can be prosecuted is a matter for the legal system; there is no statute of limitations on medical conditions.

7. Normally, there are two phases of an autopsy. The first phase is the external examination. During that portion of the examination, I will photograph the deceased and make notes of anything that might be relevant to identifying the cause of death. This might include collecting trace evidence such as hairs or fibers. I may also have to remove the deceased's clothing and document that as well as there are typically bits of trace elements contained that help lead towards conclusions. I will also measure the height and weight, whether the person appears the age that has been provided to me, note any identifying features such as tattoos or scars, and document any injuries that I observe. Not all injuries contribute to the immediate cause of death but may contribute to some mitigating factor, or even be a secondary cause of death, in a way that if that secondary element were not present, the main cause of death might not have been significant enough to cause the death. We heard this during the COVID-19 pandemic. Most deaths are not caused solely by COVID-19 but the COVID-19 infections exacerbate some underlying condition to the point of causing the death, such as diabetes, a heart condition, asthma, obesity, etc. The COVID-19 Pandemic made sifting through the evidence within the body more complicated because it makes it more difficult to determine the level of an underlying condition and how the presence of the mitigating infection amplified the effects. This is also true with lung damage in individuals with an underlying respiratory issue such as chronic obstructive pulmonary disease

(COPD) or asthma. But these factors are not determined until we get to the internal part of the examination.

8. The second phase of an autopsy is the internal examination. Not all autopsies go inside the body, especially with natural deaths. Sometimes a death is just a natural death and opening up the body isn't needed. In cases of natural or accidental deaths, we will do so if requested by the family or investigative agency. When we do, this is the part where I will examine the internal organs, including the brain, heart, lungs, and any other organs that may help me determine the cause of death. In a homicide, this is particularly important when there are sharp-force, blunt-force, or gunshot injuries. In the case of gunshot injuries, I may even collect evidence in the form of projectiles or fragments during my internal examination. Sometimes, the internal examination only focuses on a specific part of the body. Wherever we go, we weigh each organ, catalogue its color, contents, and dimensions. The human body is pretty consistent in terms of organ size, so we have a parameter of dimensions and weights that we use to measure a specific specimen against. This may tell us if something is wrong with that organ and might lead to further investigation or helping put another piece of information together.

9. In this particular case, I conducted the autopsy of Carter Cruz. Carter presented as a deceased male, and he was fully clothed in a Pagan High School Band t-shirt, jeans, zip-up sweatshirt, and black socks. He was not wearing shoes. There was no evidence of external trauma, and Carter appeared to be the reported age of 15. There was no indication from the medical personnel nor detectives that there was any suspicion of foul play, so a full autopsy was not required. Like I said earlier, occasionally, a deceased's family members will have an opinion as to whether an internal examination should be completed, so I always check with the next of kin. We also have a room at the medical examiner's office to offer grief counseling and assistance to families, as many deaths that we deal with are unexpected. In this case, the family stated that his death was sudden and unexpected, not related, to their knowledge of any underlying conditions and would like for us to investigate further. I asked about his health prior to his death and they mentioned his recent respiratory issues and hospital visit, followed by the recurrence of symptoms. Because of the Covid-19 pandemic, I felt an internal examination would be warranted, if only to possibly gather data on a potential Covid-related death. So, I proceeded to examine the internal organs and take tissue samples, primarily focusing on the heart, lungs, pulmonary system, and esophageal system.

10. The major organs were unremarkable other than the pulmonary system, which I will get to later. There was evidence of developing cardiovascular disease, specifically hypertrophic cardiomyopathy, in which the septum between the ventricles becomes hypertrophied, making it more difficult for the heart to pump blood. Carter's case was that of nonobstructive hypertrophic cardiomyopathy and the associated myofiber disarray. It is not abnormal for hypertrophic cardiomyopathy to go undiagnosed as most symptoms are presented with other common conditions. His parents said there was no indication from doctor's visits about any heart issues and said that the condition was not known to be prevalent in the immediate family, despite the condition typically being genetic. This would be



concerning for a living patient at such a young age, as it would be highly unusual and would need to be monitored and potentially treated. However, it likely would not have contributed to death in an otherwise healthy young person.

11. The oral cavity was nominal and unremarkable. The larynx showed signs of agitation, likely coming from repeated and forceful coughing, which is consistent with his previous respiratory issues. The esophagus showed signs of early stages of esophagitis, stemming from the inhalation of foreign substances rather than acid reflux. The trachea contained burst blood vessels, which while consistent with the episodes of coughing, were also consistent with damage seen in smoking patients.

12. The damage to the lungs was extensive, though. I found evidence of scar tissue throughout the lungs, presented as bronchiolitis obliterans, or "BO," commonly known as "popcorn lung." The amount of damage led me to believe that the damage had been ongoing for some time. BO is typically caused by the inhalation of diacetyl, a food additive used by vaping liquid manufacturers to deepen flavors, which, when inhaled into the bronchial trees, leads to inflammation and scarring of the alveoli, the minute air sacs inside the lungs, which results in them thickening and thus reducing the lung's capacity. My investigator reported that the deceased was found with a vape pen in his hand. I did not receive any additional information about the vape pen, but did choose to take a sample of Carter's blood to be submitted to the Commonwealth Crime Lab for further testing.

13. Finally, the toxicology report from the Crime Lab showed elevated levels of glycerin and glycol, along with diacetyl and nicotine. The glycerin, glycol, and diacetyl are common ingredients in vaping liquids. The nicotine levels in the blood were consistent with someone smoking five cigarettes a day on average over the past two weeks. To obtain these levels of nicotine absorption through vaping, the user would need to be using the device for several hours a day. The blood sample was negative for tetrahydrocannabinol.

14. Now, it should be noted that the Center for Disease Control recommends that people who choose to vape not use products that contain tetrahydrocannabinol, or THC. The CDC also recommends that you avoid using informal sources, such as friends, family or online dealers to obtain a vaping device and that you not modify or add any substances to a vaping device that are not intended by the manufacturer.


15. Research from Johns Hopkins University, supported by research from the American Lung Association, strongly suggests that vaping is bad for your heart and lungs, and that electronic cigarettes may be just as addictive as traditional cigarettes. In fact, Johns Hopkins asks the question, "Is vaping bad for you?" And, in response they answer, "There are many unknowns about vaping, including what chemicals make up the vapor and how they affect physical health over the long term. People need to understand that e-cigarettes are potentially dangerous to your health. Emerging data suggests links to chronic lung disease and asthma, and associations between dual use of e-cigarettes and smoking with cardiovascular disease. You're exposing yourself to all kinds of chemicals that we don't yet understand

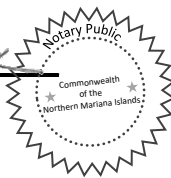
161 and that are probably not safe.” Studies have shown that many of the foreign and toxic substances  
162 that are in traditional cigarette smoke inhaled into the lungs are present in the vaping liquid  
163 compounds, even those without nicotine. The damage and inherent risk from the use of e-cigarettes  
164 is especially pronounced in minors, whose bodies are still developing and, according to the Surgeon  
165 General, the brain is still developing until age 25. Any damage might be amplified by the relative youth  
166 of the tissue and organs, making vaping especially dangerous for young people. It’s become so  
167 prevalent recently that the CDC has identified a new lung disease called e-cigarette or vaping product  
168 use-associated lung injury, or EVALI. While Carter was developing significant lung disease from his  
169 vaping, this was not the cause of death in his case.

170  
171 16. My formal conclusion was that the primary cause of death of Carter Cruz was a myocardial  
172 infarction, caused by stress on the heart triggered by decreased oxygen production due to an acute  
173 asthma attack the evening of his death. The secondary cause of death was bronchiolitis obliterans  
174 caused by a prolonged use of vaping products from an early age, triggering the asthma attack and  
175 compounding its effects. In my opinion, the asthma was a concern but not pronounced enough to  
176 cause a bronchospasm or bronchial stenosis and be fatal. Nor was the hypertrophic cardiomyopathy.  
177 Both conditions are easily manageable in a normal patient. However, due to the aggravated state of  
178 the lungs caused by the bronchiolitis obliterans, the manner of death is classified as a homicide.

**B Robinson**  
Dr. Billie/Bill Robinson

SIGNED AND SWORN to me on April 19, 2024.

  
C.M. McCormack, Notary Public



#### WITNESS ADDENDUM

I have reviewed this statement, given by me on the date above, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed,

**B Robinson**  
Dr. Billie/Bill Robinson

**Morning of Trial**  
Date

# Statement of Vicki/Victor “Vic” Vâvrick

1    1.    My name is Vic Vâvrick, and I am the owner of Vic’s Vâporium. The â in Vâvrick is a long â, so the  
2    first syllable of my last name rhymes with rave. I added the long â symbol to the name of my business,  
3    and to our exclusive vape product E-Vâp, for the sake of consistency.  
4

5    2.    Let me be upfront about my defining characteristic—I am a nicotine addict. I was introduced to  
6    nicotine as a fetus, and was around cigarette smoke every day of my life growing up in Pagan because  
7    both of my parents smoked. All the time. Even in the car. With the windows rolled up. I’m old enough  
8    to have been raised in less enlightened times, before everyone went outside to smoke, if they smoked  
9    at all. You know the Shakespearean expression: “To the manner born?” I was born to the cigarette, or  
10   so it seemed at first. My parents’ constant cigarette use made me a second-hand smoke addict, though  
11   I didn’t realize it at the time.  
12

13   3.    When I went away to college at University of Guam, with my heart set on becoming a chemical  
14   engineer, I lived in a dormitory where smoking was not allowed. Suddenly I found that I could no longer  
15   concentrate, and felt depressed and irritable all the time. I had been so looking forward to going away  
16   to college. So why did I feel so bad?  
17

18   4.    What I didn’t realize at the time, though I experienced it later when I tried quitting first-hand  
19   smoking cold-turkey, was that I was going through classic nicotine withdrawal symptoms, albeit from  
20   second-hand smoking. They say that it takes a few weeks for someone to get it out of their system and  
21   over the withdrawal symptoms. Mine seemed to last forever. I was miserable.  
22

23   5.    It wasn’t long after that before I was first-hand smoking. Some friends from the dorm were  
24   goofing around with cigarettes, and a bottle of soap with a bubble wand. We started blowing smoke  
25   bubbles. It was fun to watch the grey bubbles drift lazily along, weighted down by the smoke content,  
26   until they hit a branch, or whatever, and popped, releasing the smoke. Also, I found my ability to  
27   concentrate and study was much better after I’d played around with the bubbler. The next step was  
28   heading off to the convenience store for a pack of cigarettes for smoking without the excuse of the  
29   bubble wand. After that, there were times in my life where I felt I needed a pull-out ashtray built into  
30   my stomach. That’s how much I smoked.  
31

32   6.    Along the way at UOG, I shifted my major from chemical engineering to industrial management.  
33   I was recruited for several entry-level middle-management jobs with major corporations. But none of  
34   them let their employees smoke on the job, and they had punitive health insurance premiums for  
35   people who smoke. So I wasn’t sure if any of these jobs were a good fit for me.  
36

37   7.    This was back in 2008, when e-cigarettes were becoming a popular alternative to smoking tobacco  
38   cigarettes. I shifted from old-fashioned cigarettes to this new technology, figuring this was a way to

get my nicotine fix, perhaps more safely, and in a way that was more politically correct. At the very least, I'd no longer smell like an ashtray.

8. There weren't many places that sold e-cigarettes in the Marianas at the time outside of an occasional gas station until a smoke shop in Tumon started selling them. I went there pretty regularly to see the latest in this new technology and learned a lot about the business. The more time I spent at the tobacco shop on Guam, the more I decided that was the life for me. Who wants to be a middle manager reporting to the "man?" Much better to be my own boss. And what better place to set up shop than in my home island of Pagan? They didn't have a vape shop yet.

9. So, after I graduated, I scouted out a vacant storefront. And there were plenty in 2010 with the economy tanking. I found a location that had formerly been shoe store. The old display racks and cases were still there, making it a furnished location, in a manner of speaking. I got a great deal on the rent, too, because the landlord was just happy to get a tenant in there to make the row of storefronts look a little less empty.

10. Soon Vic's Vâporium was up and running. I sold traditional tobacco products like the store on Guam but also had an extensive line of e-cigarettes and got in on the transition to what we now call vaping. It turned out to be a great fit for me with my chemical engineering background. Once the vaping systems came online with the refillable devices and using pods, I became something of a mixologist of e-liquids, blending new flavors, and creating my customers' preferred nicotine levels.

11. Also, after experimenting with the ratios of vegetable glycerin and propylene glycol used in the base for e-liquids, I came up with just the right combination to make a thicker liquid that is smooth on the throat and creates a nice big cloud. This liquid was marketed as Vic's Vog, and was used with my signature e-cigarette device, which I called E-Vâp, which I invented and developed in 2015. I worked with a Chinese company that manufactured devices for some of the other e-cigarette companies out there and made something I would enjoy myself, knowing it would appeal to my customers. The business was going great, especially after we started hosting cloud chasing contests, the competitive sport of blowing large vapor clouds, which attracted lots of cloud gazers.

12. Things really turned a corner for me in mid-2016. I had gotten my E-Vâp into stores throughout the Marianas and had been featured in various trade journals and received an award for outstanding emerging product by the Society on Vapor Technology. I was also awarded the Platinum Award from the US Vaping Association in 2014, 2015, and 2016 for my various e-liquids and their overall sales. I had been able to distribute the e-liquids throughout the US pretty easily online and in vaping stores. All of that got the attention of Maurice Phillipe, the big tobacco company. Now, normally, those of us in the vaping community don't really like Big Tobacco. We are massive competition for them and they don't like that many of their addicted customers are moving towards vaping, like I did. But, they're doing what they can to get in on the action.

13. So, in late 2016, they came to me - actually visited me on Pagan - and made me an offer I couldn't refuse. They bought the patents, rights, and trademarks of the E-Vâp system and moved it under their corporate umbrella, but kept the E-Vâp name. As part of the buyout, I was able to keep the "Vic's Vâporium" name for the smoke shop and be their flagship location for the Maurice Phillippe E-Vâp system. I basically retained all rights to use the E-Vâp name in my own personal business. With the money from the sale, I bought my building and invested in some new equipment from Bulgaria to work on a new line of e-liquids.

14. Even though E-Vâp became a global name and made me a small fortune, I'm still held to the same laws and regulations as any other vaping and tobacco retailer in the U.S. and the Marianas. One of the big ones is not selling tobacco products to anyone under 18. I told all of my employees that this was Cardinal Rule #1, along the same lines as not selling alcohol to minors. It's not worth the headache and bad business that comes with it. I am glad to say that we never had a problem with that.

15. We've had kids trying to buy things for as long as I can remember. Heck, I did it when I was younger. It's what kids do. The same way high schoolers try to buy beer from the gas station. It's been more of a problem lately with the vaping lines. For some reason, the kids love the things but, like the leaf tobacco products, it's not for them. Fake IDs are easy to get and if you have a clerk who doesn't care, it's not hard to get away with it. But the pain of the consequence is so bad. The fines add up and I can lose my business license. That's why I have had to be so careful about who we're selling to. It's a cat and mouse game and I've got to be the smarter cat.

16. But along came 2019 and 2020, which dealt a one-two punch to Vic's Vâporium. Right before Christmas in 2019, Congress passed the Tobacco 21 legislation, which included e-cigarettes in the "tobacco products" limited to customers age 21 or older. Shortly after, the NMI passed a law raising the age to 21 and older. This change in age reduced our market, especially because the cloud chasing contests tend to attract a younger crowd. But, we've put in age limit signs on the doors as required and counters to discourage kids from trying to make illegal purchases.

17. Then just as we were adjusting to the federal increase in the age limit, COVID-19 came along in early 2020, and the Commonwealth didn't include vape shops as essential businesses that could remain open during the original shelter-in-place orders. When we finally were allowed to re-open, there was a mask requirement in place. Wearing a mask makes total sense from the standpoint of containing the spread of the virus through bodily fluids transmitted through respiration, coughing or sneezing, but it does limit the accuracy of checking a person's age identification when most of the face is obscured.

18. I believe that I've seen Carter Cruz among the cloud gazers when we hosted cloud chasing contests. I'm pretty sure he was at recent gazer event with another kid his age in February of 2024. Since these events are open to the public, we weren't violating laws or anything. But I have no way of knowing whether or not he had been in the Vâporium itself in 2024. We have been routinely checking for identification because who knows when DPS or the AG's office will start coming around to harass

us. Well, we've always checked for IDs but especially since late 2023. However, it can be tricky when facial masks are worn. It doesn't seem fair to me that DPS has been sending in young rookie officers wearing masks to trick my clerks into selling products to someone underage. It's a real gotcha move that has gotten us a time or two when the person under the mask didn't match the ID. But I know we routinely check for ID to make sure the customers are over 21, to be safe and comply with the law. Plus, we have surveillance tapes that show IDs are checked, though the same problem is true with the tapes--it's hard to reconcile the portion of the face not masked, with the ID photo.

19. I'm not naive enough to think that the stuff is safe for everyone. But nothing in life is safe for everyone. Someone on the airplane has a peanut allergy. Some have a harder time staying out of the bottle, like my friend Sam Malloy. But, the beautiful thing is that we've got the freedom to decide for ourselves what we're able to handle and what risks are worth taking. We don't try to hide what we sell. Cigarettes have some nasty stuff in them that aren't great for your health. So do Twinkies. But, if it's too much for your concern, then don't do it. Vaping is a good alternative to smoking cigarettes. You're not getting all of the tar and arsenic and other crap in your lungs. It's mostly water vapor and additives that are found in common food products, including microwave popcorn. Again, I agree that it's not good for developing bodies and have no problem with the age limits, especially 18. But if you like the feel and satisfaction of the smoking habit, vaping without nicotine is a great way to shake the worst part of the habit.

20. I hate that Carter Cruz died. It's always horrible when a kid loses their life; they haven't had a chance to live yet. I feel for his family and wouldn't want that pain on anyone. However, to blame me for his death makes no sense. I didn't do anything. I didn't sell him a device or any liquids. Especially anything with THC. That's a whole 'nother level of bad I don't want to get into. Like I said, there's inherent danger to anything you do and you have to decide for yourself if you should be doing it. He decided to use products that were not meant for someone his age to use. He did not get them from me. If they did come from me, he got them from someone else who bought them legally.


21. I know Maurice Phillipe settled with the family for a lot of money. They didn't do anything wrong either but they've got the deep pockets to make it go away before it gets too expensive. I never got that option. I would love to resolve this before it goes to trial but nothing has been brought up about any negotiations. My lawyer's tried but the Cruz family won't even discuss it. What are they going to get out of this if I lose? How is costing me some livelihood and my employees their jobs going to bring Carter back? It won't. Again, I can't imagine their pain and anger, but they need to look at the decisions their son made before they look at me.

22. Look, I got hooked on nicotine at an early age by my parents' obliviousness in exposing me to second-hand smoke. I know how hard, if not impossible, it is to kick the nicotine addiction. That's why I started vaping, and got into this business in the first place. I would never, ever knowingly sell to a minor.

Vic Vavrîck

SIGNED AND SWORN to me on April 30, 2024.

C.M. McCormack  
C.M. McCormack, Notary Public



**WITNESS ADDENDUM**

I have reviewed this statement, given by me on the date above, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed,

VicVavrîck  
Victoria/Victor Vâvrîck

Morning of Trial  
Date

# Statement of Kennedy Torres

1. My name is Kennedy Torres. Carter Cruz was my nephew. Well, kinda. His mom/dad, Alex, is my cousin. My mom and Alex's dad are siblings. We all grew up together on Guam and Alex became an older sister/brother to me. I'm eight years younger than Alex and was 17 when Carter was born and always felt like an older sister/brother or aunt/uncle to him and Preston than a cousin. This made it really easy to be that cool aunt/uncle that hangs out with you and does things with you that your mom and dad won't let you do. He was a really smart kid and down to earth, and was really easy to hang out with. We had that relationship of best friend/siblings that made it easy for him to talk to me about stuff. We'd talk about his activities, trying out for soccer, girls, and things kids his age were into.

2. Which also makes his death that much harder. The whole thing makes me angry. Angry at him for getting into the whole vaping thing. Angry at him for not listening and being smart with this. Angry at Alex and Nic for not putting their foot down more when they found out. Angry at the whole tobacco industry and how they market this stuff to kids, even though they say they don't. All of it is so senseless.

3. Like Alex, I moved to Pagan after high school and went to the University of Pagan. I wasn't a star athlete like s/he was, getting a tennis scholarship and all, but my brains in science and math got me some scholarship money. I loved biology and anatomy and wound up graduating with a bachelor's in nursing. I got a nursing position at Commonwealth Medical Center working in various departments. I really enjoyed the chaos and energy of the ER and ICU. After working through a few more rotations, I was able to get in the ICU full time and have been there ever since.

4. As the medically trained professional in the family, I became the family "doctor." I'm not a nurse practitioner, so I can't write prescriptions - not that I could for immediate family anyways - but I was always the one everyone called when they had questions. Especially Alex with the boys. But I loved it. I never minded going over to check on a bump or talk Alex and Nic down off the ledge when a fever spiked in the middle of the night. Plus, this added to my cool-factor with the boys. Nic would bring them by the hospital sometimes when they needed a flu shot and they could see me in action on the ICU floor. They were always a hit with the other nurses and doctors.

5. Being in the ICU was intense. Not as intense as the ER but a different intense, an organized chaos. Patients come to the ICU from the ER or somewhere else in the hospital, perhaps they crashed during a surgery or are recovering from an intense heart or brain procedure. Everyone in ICU has been through somewhere else, so we know what we're getting. However, if a patient needs to be in the ICU, they have some serious medical issues that require intense, round-the-clock care. It's organized chaos and we deal with issues affecting any part of the body from infections to sepsis to pneumonia to organ failure. One thing that most patients have in common is that they have some kind of respiratory issue.



39 6. Like I said, Carter and I were able to talk about all sorts of stuff. He would typically run things by  
40 me before talking to Alex or Nic or his teachers to get a feel for the reaction and figure out what to do.  
41 He told me about getting written up in 8<sup>th</sup> grade for cheating on a math test. He said he wasn't cheating  
42 but others in the class pointed their finger at him as the one that supplied the answers. He definitely  
43 got in trouble at home after Alex yelled at him. But, he and I talked it out and I was able to get him to  
44 see how the people you hang out with can have an effect on you, even if you aren't directly involved  
45 with what they are doing. Things like that. My been-there-done-that approach was a different way for  
46 him to hear things than the parent-yelling-at-you he got at home. What he didn't realize was that Alex,  
47 Nic, and I worked together on a lot of it. I never betrayed any of his confidences but talked about it  
48 with Alex and Nic after he had talked to them about it first. It was some good tag-teaming.

49  
50 7. Which makes this whole thing with the vaping make no sense. Being in the ICU, we see a lot of  
51 people come through there with respiratory issues: asthma, COPD, lung cancer complications, severe  
52 pneumonia and bronchitis, cystic fibrosis, etc. Some we can treat through nebulizers while others have  
53 to go on a ventilator. Most have pretty aggressive treatment plans which involve heavy steroids like  
54 Prednisone and antibiotics like Ciprofloxacin or Azithromycin. We are used to seeing people who  
55 messed up their lungs smoking. The thing about lung damage is that once the bronchial trees inside  
56 the lungs are damaged, there's no growing them back or fixing them. They stay damaged inside the  
57 lungs forever and that reduces your lung capacity. Everyone's seen the scared-straight pictures of a  
58 healthy lung next to a smoker's lung, right? All that stuff that is in cigarettes really damages your lungs  
59 to the point where you basically slowly suffocate yourself.

60  
61 8. So once vaping became a thing, everyone thought it was the "safe" way to smoke. The FDA  
62 approved it, so it must be safe, right? It's regulated, so it must be safe, right? It might be "safer" than  
63 smoking tobacco because you're not injecting as much arsenic, formaldehyde, lead, and mercury into  
64 your lungs. But it's still putting a foreign substance in there that interferes with processing oxygen.  
65 The vaping industry is still new enough that there are liquids and pods sold that don't comply with FDA  
66 regulations and you might be inhaling some of those same ingredients that are in cigarettes. You can't  
67 be certain. We have seen an increasing number of patients in the ICU over the past few years dealing  
68 with lung trauma from vaping. They all said they thought they were being smart and not smoking or  
69 dipping.

70  
71 9. Alex and Nic stepped up in a big way when COVID hit, and I was working 14 hour shifts every day.  
72 Alex and Nic always had a meal ready for me when my shift would end and would come over and help  
73 with laundry and other things around the house. Thankfully, I don't have kids but the boys pretty much  
74 adopted my dog Rags since I was never home. I'm not sure Nic loved that but s/he never complained  
75 to me. With COVID being all over the news like it was, they all had a thousand questions about it and  
76 wanted the "real facts" from those of us at the hospital. The media was doing what they could to cover  
77 it but with news channels being more business-driven and social media being what it is, there was all  
78 sorts of stuff going around about it that wasn't true or taken out of context. I talked about the patients

79 we had in the ICU that were on ventilators and struggling to breathe with it. We were noticing that  
80 those with asthma and COPD were hit really hard.

81  
82 10. We lost some COVID patients. It was hard. It was hard knowing that my patients were sick and I  
83 couldn't do much about it. I could help treat symptoms but couldn't do much to fix the underlying  
84 problem. And every patient was different. We'd get a 74-year old smoker who tested positive for  
85 COVID stay in the ICU and get released in two days without much worry. Then we'd have a 42-year old  
86 who was in top shape stay for two weeks before passing away. The underlying conditions helped  
87 identify those who might be in more danger but it wasn't a surefire way to know what was going to  
88 happen. The uncertainty and suddenness of those who died was the hardest part.

89  
90 11. Carter talked to me first when the school called Alex about him being caught vaping at school in  
91 early February. I talked to him early on about the dangers of smoking and he seemed to listen to what  
92 I said about it all. I had the same talk with him about drugs and alcohol as well. After talking about the  
93 vaping, I know he was just 15 and a good kid, but I really felt like he got it. Some of the stories of  
94 patients I treated in the ICU seemed to really make a big impact. So when he told me about the three-  
95 day vaping suspension, I told him how stupid it was to try vaping. It produces the same nicotine  
96 addiction as cigarettes and does very similar things to your lungs. He said that this kid's device didn't  
97 have nicotine in it, just some flavored vape juice the kid got from Vic's Vâporium. Some kind of mango  
98 mint combination, which sounds incredibly disgusting. He said that he understood and did it more for  
99 peer pressure than anything else. He always seems to be the younger kid in those groups, especially  
100 the ones he and Jess/Jessie Andrews hang out with.

101  
102 12. Speaking of Jess/Jessie, since s/he and Carter were best friends, s/he'd hang out around our family  
103 a good bit and I was able to get to know him/her pretty well. Like Carter, Jess/Jessie seemed to have  
104 a good head about him/her and was able to talk to me about things with Carter. Jess/Jessie talked to  
105 me a number of times about going to college for nursing, so that was nice to hear. After Carter's vaping  
106 suspension, Jess/Jessie told me that Carter had been hanging out with Ty Henderson after school. I  
107 don't know Ty but Jess/Jessie said that Ty tended to be the bad seed in most places and was one of  
108 the older kids who made the vaping a thing at PHS and liked showing off being able to go to Vic's and  
109 buy devices and liquids. I told Alex about it and to watch out for this Ty kid. Alex said s/he would but  
110 didn't seem too worried about it. Jess/Jessie did say that word in the school was that Ty could get  
111 vaping liquid with THC for an easy way to smoke pot at school or home without anyone finding out.

112  
113 13. I do know that Carter and Jess/Jessie went to some smoke show thing that Vic was putting on at  
114 his/her smoke shop one weekend. It's things like that that make this whole thing worse. It's illegal to  
115 sell vaping products to anyone under 21, but they do these events that are open to anyone to watch  
116 and start grooming kids to thinking that it's not a bad thing, once they're "old enough" to try it. I think  
117 this smoke show thing was in late January before Carter was suspended.

14. A few weeks after his suspension, we all noticed Carter was looking run down and losing weight. I didn't do a doctor-checkup on him but kept my eye on him. I was worried that something was going on. Possibly some kind of stress with friends or a class or something. This was right around the beginning of March. At the start of the week, he got a cough that was deep inside the chest. Really deep and phlegmy. Alex called me and I said to take him to CMC to get checked out. I recommended that they ask for a chest X-ray and a CT scan.

15. The doc at CMC found a bilateral lung infection and gave Carter some Prednisone. After three days on the Prednisone, he seemed to be better and mostly bounced back. About a week later, he sounded horrible again. I was over at Alex's eating dinner after a long, rough shift. Carter looked really run down and was wheezy. Nic had a rerun of "Live PD" on and Carter saw the officers in Columbia, SC breaking up a fight at a country bar and chuckled at the stupidity of the drunk lady trying to argue with the officers, especially that big officer that is on there a lot. That got him coughing but he shook it off and went to bed. I went home at 10.

16. At about 10:45, Alex called me completely frantic, saying that something was wrong with Carter, that he was, "cold and clammy and his skin was pale." I rushed over there and got there right as the EMTs pulled up. Nic was giving him CPR when I got up to his room with the medics. The medics wheeled Carter out to the ambulance and loaded him up. With the front door being left open, Rags got out at some point and ran out into the middle of the street with all of the commotion. The fire truck didn't see him when it was pulling out and ran him over. He died two days later.

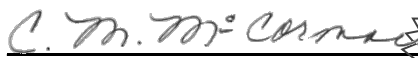
17. As part of the autopsy, the medical examiner interviewed Alex and Nic but they didn't have much to offer. I asked a friend of mine, Rachel, who worked in the CMC's pathology lab, to look at the toxicology results and she found a high level of nicotine in his system, along with increased levels of glycerin and glycol, two main ingredients in vaping liquid. It looks like Carter had kept up with the vaping. The autopsy also showed that Carter had asthma, which he was never diagnosed with. That made it worse. The asthma wasn't fatal on its own until it was exacerbated by the vaping vapor in the lungs.

18. I offered to go through Carter's room and help find some things for his memorial and funeral. I found a receipt from Vic's Vâporium for three vials of vaping liquid. I also found a vial that was labeled as CBD oil. Rachel checked it out in the lab. It was CBD oil but had a substantial level of THC as well. We have seen this in the hospital; kids coming in with respiratory problems who have been vaping and have been using CBD oil or other liquid that's had THC added to it. Basically, they turn their vape pen into an electronic joint. It doesn't have the typical smell of a joint until you open it up, then you can smell it. I also found his E-Vâp pen in a desk drawer. I ran the serial number through E-Vâp's website and saw that he bought it from Vic's in November last year. I told Nic and s/he called the Medical Examiner's office who took it as evidence for their investigation.

159 19. These tobacco and vaping companies are a cancer to our kids. They make their devices and liquids  
160 appeal to kids with flavors and their advertisements. They flood all of the social media platforms with  
161 ads and hold these events like Vic's smoke shows to destigmatize their products. They may not market  
162 directly to a kid but they market in a way where kids can see it and be attracted to it. What 45-year  
163 old housewife who smokes is really looking for a peppermint cigarette? Or mango mint? It's Skittles  
164 flavors with nicotine. One of the most popular brands is owned by a 200-year-old tobacco company!  
165 They're not even pretending to hide who they are!  
166  
167 20. Carter screwed up. He knew better and he was smarter than this. I know he got into it because of  
168 others at school like that Ty kid Jess/Jessie told me about. They made it cool and he fell for it. They  
169 had the help of Maurice Phillipe and Vic Vâvrick. Without them, Carter would have been fine.

**Kennedy Torres**  
Kennedy Torres

SIGNED AND SWORN to me on April 18, 2024.

  
C.M. McCormack, Notary Public



**WITNESS ADDENDUM**

I have reviewed this statement, given by me on the date above, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed,

**Kennedy Torres**  
Kennedy Torres

**Morning of Trial**  
Date

# Statement of Josephine/Joseph Winston

1 1. I grew up in Raleigh, North Carolina, which is right on “Tobacco Road.” This area has a rich history  
2 in agriculture, especially for growing tobacco and manufacturing tobacco products. My father worked  
3 at an advertising agency representing tobacco manufacturers. I graduated from The University of  
4 North Carolina, where I obtained my Bachelor of Arts in Media and Journalism with an emphasis in  
5 Advertising and Public Relations. After college, I followed in my dad’s footsteps and worked at Gaslight,  
6 LLC, a Raleigh Public Relations firm that primarily services tobacco companies. At Gaslight, I handled  
7 advertising campaigns, prepared press releases, responded to media inquiries, and worked to preserve  
8 public trust for tobacco companies all over the world. I was eventually hired to work in-house with  
9 Maurice Phillipe, one of the world’s largest tobacco companies.

10  
11 2. Maurice Phillipe is an old, established company but wanted to bring its product lines into the 21<sup>st</sup>  
12 century and appeal to a younger, hipper demographic. To do this, it acquired E-Vâp, an e-cigarette  
13 startup based in Pagan in July of 2016. After a few years of public relations work involving Maurice  
14 Phillipe’s more traditional tobacco products, I was assigned to the E-Vâp acquisition roll-out. I was  
15 relatively young compared to the other P.R. professionals in the company but had a fair amount of  
16 experience. Managing the E-Vâp account was a great opportunity for me to make a name for myself  
17 in the tobacco industry.

18  
19 3. E-Vâp produces electronic cigarettes and the liquid used in them. They are also referred to as  
20 vaping devices, though technically, everything in this industry is an e-cigarette. Many focus group  
21 studies have been done on the terminology and it has shown that the term “vaping” does carry a softer  
22 tone and positive image than “e-cigarette”. The tobacco industry has been on the defensive for many  
23 years over their products and the term “cigarette” has become something of a pariah in the industry.

24  
25 4. E-cigarettes are electronic devices that simulate tobacco smoking. The most basic components of  
26 an e-cigarette include an atomizer, power source and a container for e-liquid (either a cartridge or a  
27 small tank). They can be disposable or reusable and come in all shapes and sizes, depending on the  
28 user’s preferences. They are battery powered and can be recharged. Regardless of their size, e-  
29 cigarettes are designed to use a liquid to simulate traditional smoking and provide users with an  
30 alternative to combustible tobacco. The liquid contains propylene glycol, glycerin, nicotine, and  
31 flavoring. Some manufacturers of e-liquid produce liquids without the nicotine for those that enjoy  
32 the overall experience without the nicotine side effects. When the user inhales from (or presses a  
33 button on) an e-cigarette containing the e-cigarette liquid, it triggers a heating element that atomizes  
34 the e-cigarette liquid, which creates an aerosol or “vapor” the user inhales. I do not smoke so I have  
35 not personally experienced the difference between e-cigarettes and traditional tobacco products.  
36 However, according to our market research, these e-cigarette products have become extremely  
37 popular as an alternative to traditional cigarettes.

39 5. Maurice Phillipe has been a staple in providing high quality tobacco products for over a hundred  
40 years and has always ensured compliance with industry production standards. E-cigarettes and  
41 associated products are relatively new technology and regulatory agencies are still catching up with  
42 how to govern their production. Nevertheless, before bringing E-Vâp into the Maurice Phillipe family,  
43 we inspected its production facilities and ensured that they followed federal regulations, including  
44 those proposed by the Food and Drug Administration. We continue to monitor E-Vâp manufacturing  
45 procedures and are committed to maintaining the strict quality control standards that make Maurice  
46 Phillipe an industry leader.

47  
48 6. Unfortunately, adults and minors use e-cigarette liquids made from unregulated and often  
49 dangerous substances. Some of these aftermarket liquids are made on the black market and contain  
50 illegal substances such as THC oil and opiates or unknown carcinogens used to create flavoring. These  
51 unregulated and often illegal liquids also use labels and titles designed to mimic popular products from  
52 large e-cigarette manufacturers such as E-Vâp. Knock-off e-cigarette liquids are known to cause severe  
53 respiratory issues and even death in addition to the other side effects that accompany the use of illicit  
54 drugs. E-Vâp does not recommend or condone the use of illegal substances, especially when they are  
55 masquerading as our products, which comply with federal safety requirements. Furthermore, we  
56 accept no responsibility for what may occur when someone misuses one of our products or mistakenly  
57 (or purposefully) uses an aftermarket product designed to imitate one of our e-cigarette liquids. These  
58 counterfeit products are illegal because they often infringe upon our trademarks right, and because  
59 they usually contain controlled substances.

60  
61 7. Maurice Phillipe is also unable to control what happens in smoke shops and other vendors that  
62 sell our products. It is no secret that many of these shops are both legitimate businesses selling  
63 regulated products, and facades that sell illicit substances without regard to state and federal  
64 regulations, including age requirements and advertising rules. Once our products go into the market,  
65 we cannot control whether shopkeepers comply with age requirements or if they are selling our  
66 products next to unregulated illegal products. It is unfortunate that minors can purchase both legal  
67 and illegal e-cigarette products at convenience stores and vape shops, but when that occurs, it is  
68 simply out of our hands. We cannot be held responsible for the negligence or intentional wrong-doing  
69 of others, especially when Maurice Phillipe and E-Vâp have done everything possible to create a safe  
70 product intended for use by adults.

71  
72 8. Now, with that being said, we are confident that Vic Vâporick never sold anything off-label or under  
73 the counter at Vic's Vâporium. Vic has been the key to the success of E-Vâp and Maurice Phillipe's  
74 business model in the vaping industry.

75  
76 9. Maurice Phillipe and E-Vâp are deeply saddened by the death of Carter Cruz. The tragic death of  
77 any child is unacceptable. However, our products are not intended for use by minors and E-Vâp neither  
78 encourages nor condones the use of its product by minors. E-Vâp designs its products for one singular  
79 purpose: to provide an alternative to combustible tobacco for adult tobacco users. I reiterate: adult  
80 tobacco users. These products are not designed for or advertised to minors or non-smokers. Like

81 lawmakers, regulators, parents, school officials, and community leaders, E-Vâp actively strives to  
82 prevent young people from using nicotine products.

83  
84 10. It seems that Mr. Cruz was using our products illegally since he was under the age of 21, the age  
85 of legal consumption in the Commonwealth. We cannot help that. As a matter of fact, when the federal  
86 government raised the age to 21, we required all of our distributors to start complying with it right  
87 away, even if their state laws hadn't caught up yet. This was especially true for our Flagship Level  
88 partners, like Vic's Vâporium on Pagan. The store security footage shows Mr. Cruz in the store on  
89 multiple occasions. It is uncertain if Mr. Cruz personally purchased a device or e-liquid or had someone  
90 purchase it for him. Regardless, it came into his possession for his personal use.

91  
92 11. It also seems that Mr. Cruz may have been using unauthorized products in his E-Vâp device,  
93 specifically CBD oil containing THC. The use of our products for the use of illicit substances, by anyone  
94 of any age, strictly violates our company's standards and our recommended terms of use of the  
95 products. Simply put, these devices are not engineered to process substances like THC but liquid  
96 manufactured specifically for their use. It is unfortunate that some users abuse our products in this  
97 way to try to hide their THC habits but again, we cannot be held responsible for that any more than  
98 Nissan can be held responsible for someone driving their car in a bank robbery.

99  
100 12. It was never E-Vâp's intent for underage people to use our products and we have taken action to  
101 prevent that from happening. We have even worked with advocacy groups and governmental agencies  
102 to ensure our procedures are appropriate. At the recommendation of national regulatory agencies,  
103 we stopped selling fruit and dessert flavored e-cigarette cartridges because of their unintended  
104 popularity with young people. Also, even though our ads featured adults enjoying e-cigarettes as an  
105 alternative to combustible cigarettes, we halted television advertising in the United States because of  
106 warnings from regulatory agencies about the risks of our products being inadvertently marketed to  
107 teenagers. Due to the sensitive nature of this tragic loss, we also temporarily suspended E-Vâp's social  
108 media accounts.

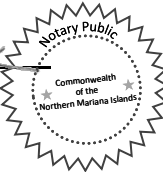
109  
110 13. When young people use our products, it is ultimately bad for our bottom line because it leads to  
111 litigation and unfounded claims about our products. Maurice Phillippe is constantly under fire from  
112 consumers, but many of these lawsuits are baseless and have resulted in years of ongoing litigation.  
113 This flood of e-cigarette litigation is no different than what the tobacco industry and Maurice Phillippe  
114 have faced through the 80s and 90s. Frankly, these e-cigarette suits are just a way for plaintiffs to cash  
115 in and get a windfall. In today's legal system, plaintiffs exaggerate facts in complaints and use the  
116 media to put pressure on companies and regulators to force large settlements. The facts do not matter  
117 anymore. It is true that Maurice Phillippe came to an out-of-court settlement with the family in this  
118 unfortunate matter. I am not at liberty to disclose the terms, though it was significantly less than a hot  
119 cup of coffee. It was purely from a business standpoint in that litigation is expensive and never really  
120 resolves any matters. At the end of a trial, what has been accomplished? After the string of lawsuits  
121 in the 1980s and 90s, the tobacco industry realized what these attack dog plaintiff lawyers were trying  
122 to do: bankrupt us with sympathetic juries based purely on emotion and sensationalism in the media,

123 not trying to recover anything for the families. Settling lawsuits, without any admission of guilt or  
124 liability, is just a better business model that serves our board, investors, employees, and those that  
125 rely on doing business with Maurice Phillipe in the best way possible. We see a settlement as a more  
126 fair and just resolution for the family so that they can move on with their lives after these tragic  
127 accidents.

JWinston  
Josephine/Joseph Winston

SIGNED AND SWORN to me on April 3, 2024.

C.M. McCormack  
C.M. McCormack, Notary Public



**WITNESS ADDENDUM**

I have reviewed this statement, given by me on the date above, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed,

JWinston  
Josephine/Joseph Winston

Morning of Trial  
Date



**MARIANAS  
MEDICAL EXAMINER'S OFFICE  
AUTOPSY REPORT**

**ME NO.:** 24-045

**DECEASED:** Carter Cruz

**SEX:** M

**AGE:** 15

**DATE AND HOUR OF DEATH:** 3-19-24; 10:55 p.m.

**DATE AND HOUR OF AUTOPSY:** 3-20-24; 9:15 a.m.

**PATHOLOGIST:** Billie/Bill Robinson, M.D.

**FINAL DIAGNOSES:**

15-year-old male who was found unresponsive alone; he received CPR before receiving medical care in the field and subsequently in the Commonwealth Medical Center (CMC) Emergency Department, but could not be resuscitated.

I. No external injuries identified

II. Natural diseases

A. Asthma, mild

B. COPD, mild

C. Hypertrophic cardiomyopathy

i. Nonobstructive, non-diagnosed

III. No life-threatening injuries identified

IV. Viral testing (nasal swab collected 3/9/2024); negative for SARS-CoV-2 RNA by PCR

V. Toxicology (see attached report for full details; testing performed on postmortem blood specimens collected 3/20/2024 at 11:15 p.m.)

A. Blood drug and novel psychoactive substances screens:

1. Cotinine positive

2. Caffeine positive

3. Glycol 3.5 ng/mL

4. Glycerin 5.6 ng/mL

5. Diacetyl 1.1 ng/mL

B. Urine drug screen: negative for amphetamine, cannabinoids, and fentanyl

**Comments:** The finding of glycol, glycerin, and diacetyl are consistent with the use of e-cigarette liquids. The finding of cotinine suggests that the liquids contained nicotine. The decedent's use of e-cigarettes contributed to his pulmonary issues, which introduced stress on the cardiac system, resulting in the myocardial infarction.

3/31/2024

**B Robinson**

X

---

Billie/Bill Robinson, M.D.

Chief Medical Examiner

Signed by: Billie/Bill Robinson, M.D.

In accordance with CMC policy, this report was reviewed by another board-certified forensic pathologist prior to release.

## **PRESENTATION:**

When initially examined, the body is in a sealed/locked and properly labeled body bag. One evidentiary paper bag was included with articles of clothing.

The body is that of a normally developed 5 feet 7-inch-long, 145-pound male whose appearance is consistent with the reported age of 15 years. The body appears slightly undernourished and underweight for the measured height and age. Rigor mortis is established in all of the major muscle groups, relenting with modest pressure. The temperature is cold following refrigeration.

## **CLOTHING AND PERSONAL EFFECTS:**

The following clothing items are received with the body in the body bag, in a hospital patient belongings bag, and examined separate from the body at the start of the postmortem:

- Size M "Nike" brand black track pants
- Size M "Under Armour" brand underwear
- Size M grey "Pagan Marching 76<sup>ers</sup>" t-shirt, extensively cut apart (presumably for medical intervention)
- Size L "Champion" brand zip-up long-sleeve sweatshirt with hood
- A pair of dark grey mid-calf socks

## **MEDICAL INTERVENTION:**

- Oral endotracheal tube, correctly positioned in the trachea and held in place on the face with a white and tan plastic and elastic band
- Curvilinear orange abrasions centered over the sternum (10 cm maximum dimension aggregate), consistent with cardiopulmonary resuscitation
- Needle puncture, just distal to the left antecubital fossa
- Hospital tag, right great toe
- Hospital bracelet, right wrist
- Minimally hemorrhagic horizontal fracture in the sternum, consistent with cardiopulmonary resuscitation
- Non-hemorrhagic fracture of the anterior left 4th rib, consistent with cardiopulmonary resuscitation

## **EVIDENCE OF INJURY:**

- There was no external evidence of injury to the body.

## **INTERNAL EXAMINATION:**

The internal examination was initially limited to the pulmonary system due to the decedent's recent hospitalization with a bilateral lung infection and the cardiovascular system.

**Head:** The soft tissues of the scalp are free of injury. There are no skull fractures.

**Neck:** The thyroid cartilage and hyoid bone are intact. The larynx is marginally constricted with above-average mucosa, but otherwise free of obstructive lesions or materials. The tongue contained bite marks from the posterior molars but was free of hemorrhage or other injuries. The cervical spinal column is palpably stable and free of hemorrhage.

**Body Cavities:** Except as previously noted, the ribs, sternum, and vertebral bodies are visibly and palpably intact. No excess fluid is in the pleural, pericardial, or peritoneal cavities. The organs occupy their usual anatomic positions.

The liver, kidneys, spleen, pancreas, and intestinal systems are atraumatic and free of lesions, trauma, hemorrhage, or visible abnormalities.

**Respiratory System:** The right and left lungs weigh 875 g and 910 g, respectively. The external surfaces are pink and reddish-purple. The pulmonary parenchyma is congested. No mass lesions are present. The pulmonary vascular tree is moderately edematous and the alveolar sacs are enlarged and inflamed with evidence of bronchiolitis obliterans present in both lungs.

**Cardiovascular System:** The heart weighs 375 g, within the nominal weight for the decedent's age and weight. The epicardial surfaces are smooth. The coronary arteries are present in normal structure, with a right-dominant pattern. The septum between the ventricles measured 0.7 cm thick, and the walls of the left ventricle is stiff, consistent with hypertrophic cardiomyopathy. The left ventricular cavity is moderately dilated. A cross-section of the myocardium shows myofiber disarray and muscular samples show stress consistent with arrhythmia and myocardial infarction.

**OTHER PROCEDURES:**

1. Routine tissue sections are retained
2. Postmortem specimens collected and retained: femoral blood, urine
3. Representative tissue biopsies are retained in formalin for microscopic examination.
4. The dissected organs are returned to the body.

**CAUSE OF DEATH:**

Primary: Myocardial infarction

Secondary: Bronchiolitis obliterans, asthma

**MANNER OF DEATH:**

Homicide

**OPINION AND COMMENT:**

The decedent died as a result of a heart attack triggered by an asthma attack. The heart's condition with the hypertrophic cardiomyopathy weakening the heart enough to succumb to the heart attack. The asthma was exacerbated by COPD, resulting from the decedent's use of e-cigarette products.

## Official Report

**Division of Forensic Sciences****Bureau of Investigation****Commonwealth of the Northern Mariana Islands**

Cleveland Miles  
Deputy Director

\* ISO/IEC 17025 Accredited \*  
\* ASCLD/LAB Accredited \*

**Headquarters****DOFS Case #:** 2024-0045**Report Date:** 4/17/2024**Requested Service:** Toxicology

Agency: Marianas Medical Examiner's Office

Agency Ref#: 080266501

Requested by: B. Robinson

**Case Individuals:**

Subject: Carter Cruz

**Evidence:**

On 3/21/2024, the laboratory received the following evidence from the Pagan Department of Public Safety via Lockbox.

001	Sealed alcohol collection kit containing the following items identified as collected from Carter Cruz.
001A	Three tube(s) containing blood
001B	Bottle containing urine

**Results and Conclusions:**

Drug Screen Results by: Immunoassay

Subm#:	Drug Screen Classification	Result
001B	urine common opioids	Negative
	urine-amphetamines	Negative
	urine-barbiturates	Negative
	urine-cannabinoids (marijuana)	Negative
	urine-certain benzodiazepines	Negative
	urine-cocaine/cocaine metabolites	Negative

**Drug Confirmation Results**

Results were obtained using one or more of the following instrumental methods:

Gas chromatography/mass spectrometry (GC/MS)

Liquid chromatography/mass spectrometry/mass spectrometry (LC/MS/MS).

Submission 001A

- 1) negative, THC metabolite
- 2) negative, comprehensive drug screen
- 3) positive, cotinine
- 4) positive, glycol, 3.5 ng/mL (+/- 10%)
- 5) positive, glycerin, 5.6 ng/mL (+/- 9%)
- 6) positive, diacetyl, 1.1 ng/mL (+/- 14%)

Only those items discussed in the results above were analyzed for this report. The above represents the interpretations/opinions of the undersigned analyst. Evidence analyzed in this report will be returned to the submitting agency. Biological evidence (body fluids and tissues) and fire debris extracts will be destroyed after one year. This report may not be reproduced except in full without written permission of the laboratory.

This case may contain evidence that must be preserved in accordance with the law.

**Caleb Evans**

Caleb Evans

Forensic Toxicologist

670-527-8779

cc: Marianas Medical Examiner's Office

**End of Official Report**





# Marianas News

87°   
Detailed Forecast

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Posted: 9:15 a.m. Monday, September 25, 2023

## Vic's Vâporium cited, clerk arrested for illegal drug sales



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By [Mavis Hebbard](#)

Marianas News Staff

Vic Vâvrick, the owner of Vic's Vâporium was cited by the Pagan Department of Public Safety Friday evening after it was discovered that the store had been selling tobacco and vaping products to minors over the past several months. Lt. Theo Barnett of the DPS told the Marianas News that they were tipped that a clerk at the smoke shop had been selling THC oil at the store. Lt. Barnett would not confirm the source of the information but said that when the department's detectives went to execute a search warrant, they found THC oil in vials labeled as CBD oil in the possession of Allison Simmons, a clerk at the smoke shop. Simmons was arrested and booked into the adult detention center last night. She has not yet posted bond.

In reviewing video surveillance tapes of the storefront for further evidence of Simmons' illegal sales, the detectives found that Simmons and other clerks had been selling tobacco and e-cigarette products to customers without checking identification, and in some cases, selling to minors presenting false identifications, illegal under law. Vâvrick was cited with a misdemeanor and fined.

In January of 2021, the CNMI Legislature passed legislation to raise the legal age to buy tobacco products from 18 to 21 in an attempt to curb underage tobacco use and align with current federal law.



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← → ↺ evap.com/device/verification/results

**WARNING: This product contains nicotine.  
Nicotine is an addictive chemical.**

☰ Store Locator Register a Product Customer Support

E- About E-Vâp Our Product Our Community Shop

2:25 / 2:25

E-Vâp Device Verification

Serial Number 15AR6671F7RE37

**VERIFIED**

Sold by: Vic's Vâporium  
Date: November 16, 2023, 04:19 p.m. ChST

*This information is only intended to verify the location of the original sale of the device. E-Vâp cannot verify the original seller's compliance with federal and state laws regarding sale to minors. E-Vâp, nor Maurice Phillipe, accept no liability nor claim of liability for the intentional misuse of its products nor the illegal sale thereof.*

The sale of tobacco products to minors is prohibited by law.

## IN THE SUPERIOR COURT OF THE COMMONWEATH

Commonwealth vs.

*Clerk to complete if incomplete:*

OTN(s): 597167005190

DOB: 2/26/1989

**VIC VÂVRICK****CRIMINAL ACTION #: 23CR-0151****Final Disposition:****MISDEMEANOR with PROBATION**☐ **Repeat Offender as imposed below****PLEA:****VERDICT:**☐ Repeat Offender waived☒ Negotiated ☐ Non-negotiated ☐ Jury ☐ Non-jury**The Court enters the following judgment:**

Count	Charge (as indicted or accused)	Disposition (Guilty, Not Guilty, Guilty- <del>Alford</del> , Guilty- Lesser Incl, Nolo, Nol Pros, Dead Docket)	Sentence	Fine	Concurrent/ Consecutive, Merged, Suspended
1	Sale or distribution to minors of tobacco related objects 6 CMC § 3110	Guilty	12 months on probation	\$1000.00	

The Defendant is adjudged guilty for the above-stated offense(s); the Court sentences the Defendant to confinement in such institution as the Commissioner of the State Department of Corrections may direct, with the period of confinement to be computed as provided by law.

**SENTENCE SUMMARY**

The Defendant is sentenced for a total of 12 months, ☐ with the first \_\_\_\_\_ to be served in confinement and the remainder to be served on probation; or ☒ to be served on probation.

The Defendant is to receive credit for time served in custody: ☐ from \_\_\_\_\_; or ☐ as determined by the custodian.

- ☒ 1. The above sentence may be served on probation provided the Defendant shall comply with the Conditions of Probation imposed by the Court as part of this sentence.
- ☒ 2. Defendant must complete 250 Hours of Community Service.
- ☒ 3. Defendant must pay a fine of \$1000 U.S. Dollars.

**GENERAL CONDITIONS OF PROBATION**

The Defendant is subject to arrest for any violation of probation. If probation is revoked, the Court may order incarceration. The Defendant shall comply with the following General Conditions of Probation: 1) Do not violate the criminal laws of any governmental unit and be of general good behavior. 2) Avoid injurious

and vicious habits.3) Avoid persons or places of disreputable or harmful character. 4) Report to the Probation Officer as directed and permit the Probation Officer to visit you at home or elsewhere. 5) Work faithfully at suitable employment insofar as may be possible. 6) Do not change your place of abode, move outside the jurisdiction of the Court, or leave Pagan without permission of the Probation Officer. If permitted to move or travel, you agree to waive extradition from any jurisdiction where you may be found and not contest any effort by any jurisdiction to return you to this Commonwealth. 7) Complete Community Service hours as ordered by the Court. 8) When directed, in the discretion of the Probation Officer: (a) submit to evaluations and testing relating to rehabilitation and participate in and successfully complete rehabilitative programming; (b) wear a device capable of tracking location by means including electronic surveillance or global positioning satellite systems; (c) complete a residential or nonresidential program for substance abuse or mental health treatment; and/or (d) agree to the imposition of graduated sanctions as defined by law. 9) Make restitution as ordered by the Court.

**Acknowledgment:** I have read the terms of this sentence or had them read and explained to me. If all or any part of this sentence is probated I certify that I understand the meaning of the order of probation and the conditions of probation. I understand that violation of special condition of probation could result in revocation of all time remaining on the period of probation.

Vic Vavrick  
Defendant

I certify that the Defendant has read the terms of this sentence or had them read and explained to him/her. If all or any part of this sentence is probated, I certify that the Defendant has acknowledged understanding of the meaning of the order of probation and the conditions of probation.

Frank Mendoza  
Probation Officer

J-EL4, Attorney at Law, represented the Defendant by: ☒ employment; or ☐ appointment.

**SO ORDERED** this 5th day of December, 2023

Michael Barker  
Judge Michael Barker

Prosecutor: Darrell Sutton  
Assistant Attorney General



Autogram



Vic's Vâporium  
Sponsored

vape the  
rainbow!



Exclusive  
retailer of  
E-Vap in  
Pagan

Vic's Vâporium



Cruzz, Jess\_An and 45 others liked this  
FEBRUARY 13



# IN THE SUPERIOR COURT OF THE COMMONWEALTH

ALEX CRUZ,  
as representative of the Estate of Parker  
Cruz, Deceased,

Plaintiff

v.

VIC'S VÂPORIUM

Defendant.

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CIVIL ACTION NO: 24-CV-0068

## LIMITED JURY INSTRUCTIONS

[Not to be read in open court]

### Pleadings

You have been considering the case of Alex Cruz, representative of the estate of Carter Cruz, deceased, as Plaintiff, vs. Vic's Vâporium, as Defendant, Civil Action No. 24-CV-0068. You have heard the evidence and are familiar with the contentions of the parties. It is now my duty to instruct you on the law which you shall use in reaching a verdict in this case.

### Burden of Proof; Generally; Preponderance of Evidence, Defined

The plaintiff has the burden of proof, which means that the plaintiff must prove whatever it takes to make the case, except for any admissions (in the pleadings) by the defendant. The plaintiff must prove the case by what is known as a preponderance of the evidence; that is, evidence upon the issues involved, while not enough to wholly free the mind from a reasonable doubt, is yet sufficient to incline a reasonable and impartial mind to one side of the issue rather than to the other.

Your verdict will only deal with liability – the issue of damages will be reserved for a later time.

### Evidence, Generally

Evidence is the means by which any fact that is put in question is established or disproved. Evidence includes all of the testimony of the witnesses as well as the exhibits admitted during the trial. It also includes any stipulations, which are facts agreed to by the attorneys.

### Circumstantial Evidence, Direct Evidence

Some of you have probably heard the terms "circumstantial evidence," "direct evidence" and/or "hearsay evidence." Do not be concerned with these terms. You are to consider all the evidence admitted in this trial.

However, the law does not require you to believe all the evidence. As the sole judges of the facts, you must determine what evidence you believe and what weight you attach to it.

**Stipulations**

Where parties stipulate facts, this is in the nature of evidence. You may take that fact or those facts as a given without the necessity of further proof. However, you are not required to do so, and even such matters may be contradicted by other evidence. You make all decisions based on the evidence in this case.

**Credibility of Witnesses**

The jury must determine the credibility of the witnesses. In deciding this, you may consider all the facts and circumstances of the case, including the witnesses' manner of testifying, their intelligence, means and opportunity of knowing the facts to which they testify, the nature of the facts to which they testify, the probability or improbability of their testimony, their interest or lack of interest in the outcome of the case, and their personal credibility as you observe it. You make all decisions as to the facts of this case, under the law as given you in this charge.

It is for you to determine whether or not a witness has been impeached and to determine the credibility of such witness and the weight the witness's testimony shall receive in the consideration of the case.

**Torts, Introduction**

The case before you is a tort case in which the plaintiff must prove by a preponderance of the evidence that the negligence of the defendant, if any, was a proximate cause of the injuries to the plaintiff.

**Torts, Ordinary Negligence**

Ordinary negligence means the absence of or the failure to use that degree of care that is used by ordinarily careful persons under the same or similar circumstances. Before a plaintiff can recover damages from a defendant in a case such as this, there must be injury to the plaintiff resulting from the defendant's negligence.

**Torts, Negligence Per Se**

The plaintiff contends that the defendant violated certain laws or ordinances. Such violation is called negligence per se, which means negligence as a matter of law. It is your duty to decide whether such violation took place or not.

**Torts, Negligence, One Act Sufficient**

The plaintiff must prove that the defendant was negligent in one or more ways alleged in order to recover. It is not necessary for the plaintiff to prove that the defendant was negligent in every way that the plaintiff claims. If you find no negligence at all on the part of the defendant, then the plaintiff's case against the defendant ends.

**Torts, Care for Own Safety, Duty to Exercise**

Every person has a duty to use ordinary care for his or her own safety. If you should determine from the evidence that the plaintiff failed to use ordinary care and that this failure was the sole proximate cause of the plaintiff's injuries, then the plaintiff cannot not recover from the defendant.

**Torts, Avoidance of Consequences**

If the plaintiff, by the exercise of ordinary care, could have avoided the consequences caused by the defendant's negligence, then the plaintiff is not entitled to recover. In other cases, the defendant is not relieved even though the plaintiff may have contributed to the injury sustained. The plaintiff's duty to exercise ordinary care to avoid the consequences of the defendant's negligence does not arise until the

defendant's negligence exists and the plaintiff knew or, in the exercise of ordinary care, should have known of such negligence.

### **Torts, Assumption of Risk**

When a person knowingly and voluntarily takes a risk of physical injury, the danger of which is so obvious that the act of taking such risk, in and of itself, amounts to a failure to exercise ordinary care for one's own safety, that person cannot hold another liable for injuries proximately caused by such action even though the injuries may be in part attributable to the negligence of the other person.

### **Torts, Proximate Cause, Definition**

Proximate cause means that cause which, in a natural and continuous sequence, produces an event, and without which cause such event would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using ordinary care would have foreseen that the event, or some similar event, might reasonably result therefrom. There may be more than one proximate cause of an event, but if an act or omission of any person not a party to the suit was the sole proximate cause of an occurrence, then no act or omission of any party could have been a proximate cause.

### **Torts, Proximate Cause, Foreseeability, Natural and Probable Consequence, Intervening Cause**

A defendant may be held liable for an injury when that person commits a negligent act that puts other forces in motion or operation resulting in the injury when such other forces are the natural and probable result of the act that the defendant committed and that reasonably should have been foreseen by the defendant. When the injuries could not reasonably have been foreseen as the natural, reasonable, and probable result of the original negligent act, then there can be no recovery.

### **Verdict in Writing**

Whatever your verdict in the case, it must be agreed to by each juror; it must be in writing, dated, and signed by your foreperson; and it must be returned and read aloud in court. You must write your verdict on the verdict forms provided.

### **Sympathy**

Your verdict should be a true verdict based upon your opinion of the evidence according to the laws given you in this charge. You are not to show favor or sympathy to one party or the other. It is your duty to consider the facts objectively without favor, affection, or sympathy to either party.

In deciding this case, you should not be influenced by sympathy or prejudice because of race, creed, color, religion, national origin, sexual preference, local or remote residence, economic, or corporate status for or against either party.

### **Jury, Final Instructions**

Your verdict must be unanimous. One of your first duties in the jury room will be to select one of your number to act as foreperson, who will preside over your deliberations and who will sign the verdict to which all twelve of you freely and voluntarily agree.

You should start your deliberations with an open mind. You should carefully consider all of the evidence in the case and deliberate with an aim toward reaching a unanimous verdict consistent with your consciences and oaths as jurors. Avoid premature, fixed opinions. Consult with one another and consider each other's

views. Each of you must decide this case for yourself, but you should do so only after discussion and consideration of the case with your fellow jurors. Do not hesitate to change an opinion if convinced that it is wrong. However, you should never surrender honest convictions or opinions in order to be congenial or to reach a verdict solely because of the opinions of the other jurors.

You may go now to the jury room, but do not begin your deliberations until I send you the pleadings, exhibits, and verdict form, which I will do shortly. Then you may begin your deliberations.



# Authorities

## Rules of Evidence for Mock Trial Competition

### **CNMI Statutes**

See [CNMI Public Law 21-40](#) as codified in

[5 CMC § 50131\(a\)](#)

[4 CMC § 50144\(b\)](#)

[6 CMC § 3110](#)

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### **Case Law**

*The following excerpts are from CNMI case law and the Restatement of Torts concerning the legal issues raised in this mock trial case. Only portions of the opinions are provided, and only those portions may be used in the course of the trial. Citations and internal quotation marks are omitted in the excerpts of the cases that follow.*

“To establish negligence, it must be shown by a preponderance of the evidence the elements of duty, breach, causation, and damages.” *Mu v. Oh*, 2015 MP 18 P9 (citing *Owens v. Commonwealth Health Ctr.*, 2012 MP 5 P 3 n.2).

“An actor’s liability is limited to those harms that result from the risks that made the actor’s conduct tortious.” Restatement (3d) of Torts S 29 (2010). “When . . . other causes—intervening acts—are unforeseeable, unusual, or highly culpable they may bear on whether the harm is within the scope of the risk.” Restatement (3d) of Torts S 34, Comment e (2010).

“When an actor’s tortious conduct causes harm to a person that, because of a preexisting physical or mental condition or other characteristics of the person, is of a greater magnitude or different type than might reasonably be expected, the actor is nevertheless subject to liability for all such harm to the person.” Restatement (3d) of Torts S 31 (2010).