



**FACT PATTERN #1 –  
PEOPLE V. COLE THOMPSON**

## STIPULATIONS

### **Procedural Matters**

1. Federal Rules of Criminal Procedure and Federal Rules of Evidence apply.
2. All witnesses called to testify who have identified the parties, other individuals, or tangible evidence at deposition or prior testimony will, if asked, identify the same at trial.
3. The reports were given under oath and contain a full and complete description of all material events that occurred, and all witnesses agree that the statements given are a full and complete statement without errors or additions.
4. All reports and statements were signed under oath.
5. Each party will call one witness. Witnesses will be played by students of any gender. The prosecution will call Sean Meachim. The defense will call Beck Pitman.
6. The defendant, Cole Thompson, may be played a person, or might otherwise be considered constructively present at trial. Judges will be instructed to disregard whether a defendant is physically present at trial when making scoring determinations.
7. While referred to as depositions in the State of New Midland, each witness's statement was given to a police officer and not at a formal deposition.
8. Other than what is provided, there is nothing unusual that would detract from the background information of any of the witnesses that would bolster or detract from their credibility.
9. This competition does not permit a witness to invent a material fact. For clarity's sake, a material fact is a fact that would influence an element or defense in a substantive way to make it unfair for another team to provide a fair rebuttal. Invention of individuals is fair as long as they do not affect each parties' burdens.
10. "Beyond the record" will not be entertained as an objection.
11. All exhibits are considered authentic and have met all notice requirements under the Federal Rules of Evidence.
12. All exhibits are original unless indicated otherwise on the document or established at trial. No chain of custody issues exists with any physical of the physical evidence.
13. Both parties have complied with their disclosure requirements under applicable federal and state law. The exhibits marked below include all the potentially relevant documents possessed by either party.

14. Jurisdiction is established. No challenges to jurisdiction shall be entertained.
15. The trial is taking place on August 29, 2023.
16. Pretrial motions can consist of any evidentiary argument made for either side. Each side will have a total of five (5) minutes to do so. Each side will also have a total of five (5) minutes to argue any additional evidentiary issues prior to closings. Additional time may be granted at the discretion of the presiding judge for pre-closing motions. For the purposes of this trial, all jury instructions included in this fact pattern will be given and no motions relating jury instructions will be entertained. No motions to suppress evidence on the grounds that it was obtained in violation of the Fourth or Fifth Amendment were brought prior to trial. No such motions will be entertained or serve as grounds for exclusion at trial.
17. This competition does not allow outside case law for argument.

### **Substantive Matters**

1. Sean Meachim's phone is a 2013 model Motorola smartphone with a present-day value of \$50. The phone is currently completely inoperable.
2. The Shallow end of the pool is located closer to the apartments and at the opposite end of where the pool is designated 10 feet deep.

**STATE OF NEW MIDLAND  
COUNTY OF FRANKLIN  
CITY OF EASTMAN**

**THE PEOPLE OF THE STATE  
OF NEW MIDLAND**

**vs.**

**Cole McBride Thompson**

**Date of Birth 8/7/1996**

Information/Complaint

Criminal Mischief in the 4<sup>th</sup> Degree

Your complainant, SEAN DELANEY MEACHIM, being duly sworn, deposes and states that I was at the premises known as Beck's Aquatainment Complex in the City of Eastman, State of New Midland on the 9<sup>th</sup> day of July 2023 at approximately 3:30 pm. At that date and time at the premises known as Beck's Aquatainment Complex, 1234 Skroob Rd. in the City of Eastman, State of New Midland, I accuse COLE MCBRIDE THOMPSON of intentionally, knowingly, and unlawfully committing the class A misdemeanor of CRIMINAL MISCHIEF IN THE 4<sup>TH</sup> DEGREE in violation of Section 145.00of the Penal Law of the State of New Midland. The factual basis for the above being:

UPON PERSONAL KNOWLEDGE or  UPON INFORMATION AND BELIEF follows:

COMPLAINANT STATES THAT ON OR ABOUT THE ABOVE LISTED DATE, TIME, AND PLACE THE DEFENDANT(S):

Did smash my smartphone then threw it in a swimming pool.

The fair and reasonable value of said property is approximately less than \$200. That by the above-described action, the defendant intentionally damaged the property of another person.

*NOTICE: FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS A MISDEMEANOR PURUSANT TO SECTION 120.45 OF THE NEW MIDLAND PENAL LAW.*

*Sean Meachim/ July 9<sup>th</sup>, 2023*

## WITNESS STATEMENT

SEAN DELANEY MEACHIM swears and deposes the following on the 9<sup>th</sup> day of July 2023:

My name is Sean Meachim. I am a resident of the City of Eastman, living at 1232 Skroob Rd Unit D, which is an apartment in the Lone Starr apartment complex. The complex is right next to Beck's Aquatainment Complex, which is really just a swimming pool that's open to the public. Most people have to pay some nominal entry fee, but Lone Starr apartment complex has a deal with Beck's that all residents, like me, get free admission to the pool in the summer.

When I was a kid, I grew up with a pool in my backyard, so I'm a really good swimmer. I love just floating around, swimming laps, doing flips and tricks, and playing around with friends in the pool. It's great to have access to Beck's Aquatainment Complex because it means I've got a swimming pool I can use pretty much whenever I want without having to put in the work to take care of it.

The only trouble with the Aquatainment complex is that sometimes it can get pretty busy. Growing up with a pool in my backyard, I was always used to being able to swim, alone, whenever I wanted. Not so at Beck's. Sometimes if you get lucky you can find a summer weekday where it's pretty sparse. But at peak hours, like mid-afternoon on the weekend, it's always slammed with other people.

Unfortunately, on July 9 this year, one of those other people was the one and only, my arch-nemesis, Cole McBride Thompson. Cole and I have known each other for years, ever since we were little kids, and we've never gotten along. Cole was a little runt in school, and so yeah, I used to pick on him a bit. Call him names like "baked bean" or "wee kid" or put his stuff on high shelves where he couldn't reach. We were kids, and I didn't really know better. And it's not like he didn't get me back just as often. I mean, I can't remember any specific instance of him getting me back, but I'm sure it happened.

Anyway, Cole must live nearby because I see him at Beck's Aquatainment Complex all the time, and he was there on July 9. It was a busy day, and there were probably somewhere around 20-30 people at the pool. When you arrive at the pool, you have to sign in. I got there at around 1:00, signed in, and then took my sunglasses, phone, and keys and put them on one of the shaded tables on the pool deck, the one closer to the shallow end, the middle table on the right side of the pool, depicted in exhibit 2. Then I took off the loose-fitting shirt I was wearing so I was just in my swimsuit and hopped in the pool.

At first, I swam around, and everything was great. The water was just cool enough to be refreshing in the July heat without being too chilly. I swam laps up and down the pool, doing my best to dodge out of the way of the kids and families that were there. I enjoyed myself greatly until around 2:00 pm. At that time, I was swimming laps in the deep end of the pool when I accidentally slammed into another swimmer. When I pulled my head out of the water and saw who I hit, I saw that it was Cole. When we made eye contact, Cole shouted "You did that on purpose! You've been tormenting me my entire life, you jerk! One day soon you will get yours!"

After shouting at me, Cole proceeded to wind back and splash a huge amount of water directly in my face. By the time I had wiped my eyes, Cole had disappeared into the crowd. I decided to brush the interaction off and get back to my swimming.

About 5 minutes later, I was feeling pretty tired and was thinking about getting out of the pool. As I looked up on the pool deck, I spotted my phone, wallet, and keys, sitting next to my towel, right where I had left them. At that same moment, I saw someone walk up and look at my pile of stuff. I couldn't see their face because the sun was right behind them, but I saw them look around furtively and then pick up my phone and put it in their pocket. It was a male wearing swim trunks that looked exactly like the trunks that I'd seen Cole wearing a few minutes ago. The best description I can give is that they were dark blue trunks with some type of white decoration all over them. I don't know, maybe whales or fish or something. Hard to say specifically what was on them beyond that, but they looked just like Cole's trunks. The person also had Cole's build – about 5' 10- 5'11, medium build and about 180 pounds, and same hair color. As they walked away, they again disappeared into the crowd.

Of course, I hurriedly got out of the swimming pool and ran up to my stuff. When I was getting out of the pool, I yelled to the person as they were walking away toward the shallow end- stop, stop, thief. Then I grabbed my wallet, keys and towel. I looked around to see if I could find Cole, but I didn't see him. As I said the pool was crowded that day and there were a lot of people on the pool deck. At this time, I heard a commotion from down in the shallow end. I went over to see what it was. I saw a bunch of people in the pool standing around what I could clearly tell was my phone, sitting on the bottom of the pool. Eventually, someone fished it out and handed it to me. In addition to being waterlogged, it was completely busted. It looked to me like someone had spiked it into the concrete or stepped on it.

Of course, I immediately knew that it was Cole who had smashed my phone and threw it in the drink.

I am familiar with the following exhibits in this case.

Exhibit 1 is a photo of my phone after it was thrown in the pool.

Exhibits 2 and 3 are photos of the pool and pool deck.

Exhibit 4 is a photograph of my phone after it was fished out of the pool. It's an older model phone, because I don't like to upgrade my phone until it's absolutely necessary. Trade-in value before it was smashed would probably have been no more than \$20-30, but it's the principle of the thing that matters. People shouldn't smash other people's phones.

I understand the foregoing to be a full, complete, and accurate account of events that transpired in relation to this incident. I understand that I am allowed to update this account with any additional information or details any time until the day before the trial is set to begin.

X *Sean Meachim*

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Sean Meachim

## WITNESS STATEMENT

BECK PITMAN swears and deposes the following on the 10<sup>th</sup> day of July 2023:

I am the owner, operator, and Chief Lifeguarding Officer of Beck's Aquatainment Complex in the City of Eastman, New Midland. I live on 681 Nice Street in the Town of Hellene, a suburb of the City of Eastman.

Around five years ago, I moved to Franklin County and purchased a disused public swimming pool from the City of Eastman, which I then refurbished into Beck's Aquatainment Complex. I made agreements with a number of local apartment complexes to allow their tenants free access to the Aquatainment Complex.

In addition to being a business owner, I'm also a New Midland Certified Lifeguard. Back in 2019 I completed a state-certified lifeguarding course at the local YMCA and received a lifetime lifeguard certification. I did this because it was becoming harder and harder to find qualified lifeguards to monitor the Aquatainment Complex, and so I figured I may as well get myself certified so I can fill in for any times I can't hire someone to take care of the job.

July 9<sup>th</sup> was as busy a day as we've had this summer. We opened at 10:00 am that day and were slammed from the moment I opened the gate. At no point did we have fewer than 5 people at the pool, and by my count sometimes we got as high as 30 to 40 people. The safe occupancy limit for the swimming pool itself is 40, while the limit for the pool and deck is 60.

Since I started lifeguarding at the Aquatainment Complex back in 2019, I've gotten to know a number of the regulars at our pool. Sometimes they'll come up and chat, we'll ask each other about our lives, kids, etc. We were never close – I've never spent any time with any of the regulars outside of the pool deck, but over the course of a few years you'd get to know one another.

Two such regulars that I eventually got to know were Sean Meachim and Cole Thompson. They were both frequent swimmers, generally each coming by the Aquatainment Complex once or twice a week. That said, I can't really remember them talking or spending any time together.

It looked to me like Sean would intentionally stay out of Cole's way. Any time Cole would come to the pool and Meachim was already there, soon enough I'd see Meachim pack up their effects and head out. I can't remember seeing Cole ever do the same.

One time, maybe sometime in summer of 2022, I asked Cole about how he knew Meachim. Cole gritted his teeth and replied, "Sean is a bully who's been torturing me all my life. Trust me, they're bad news. I've never met anyone who liked Sean. They're just the type of person that hurts people and doesn't care. They've got more enemies than you could ever count."

On July 9<sup>th</sup>, I remember seeing Sean swimming around the pool. It looked to me like they weren't paying attention to what they were doing or where they were going. They kept on running into people at full speed, or splashing them, or otherwise kicking them. At least 3 or 4 people at the pool that day came up to me complaining about Sean, and once or twice I blew my whistle and told Sean to pay better attention.



I was at the shallow end of the pool tending to a little girl who had skinned her knee on the pool deck when the alleged incident between Sean and Cole happened on July 9<sup>th</sup>. By the time the ruckus in the pool caught my attention again, Sean's phone was already in the pool. I didn't see the initial altercation between Sean and Cole, and I didn't see Cole get out and smash Sean's phone. When the phone was in the pool, I grabbed my phone and took a picture of it. I just wanted to document what was going on. Not every day you see a phone in a pool, and I knew something was up. The photos I took are exhibit 1, 2 and 3. I took the photo in exhibit 1 within a few minutes of realizing the phone was in the pool. It took the photos in exhibit 2 and 3 after the pool was closed for the day.

That said, after the incident occurred, I did overhear Cole talking to some other guests at the pool. "Serves Sean right. What goes around comes around. I'm just glad somebody finally put that bully in their place." I could see Cole, and when they said "somebody" they gave a really big wink and a grin.

I am familiar with the following exhibits in this case.

Exhibit 1 is a photo of Sean Meachim's phone after it was thrown in the pool. I was the one who ultimately jumped in and fished it out.

Exhibits 2 and 3 are photos of the pool and pool deck.

Exhibit 4 is a photograph of Sean Meachim's phone after I fished it out of the pool.

Exhibit 5 is a Facebook post by Cole Thompson that I saw the evening of July 9. I am friends with both Cole and Sean on Facebook. I don't remember seeing any other Facebook posts from anyone about this incident.

I understand the foregoing to be a full, complete, and accurate account of events that transpired in relation to this incident. I understand that I am allowed to update this account with any additional information or details any time until the day before trial is set to begin.

*X Beck Pitman*

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Beck Pitman

## **JURY INSTRUCTIONS**

### **CRIMINAL MISCHIEF IN THE FOURTH DEGREE** (Intentionally Damaging Another's Property)

Penal Law § 145.00(1)

The first count is Criminal Mischief in the Fourth Degree.

Under our law, a person is guilty of Criminal Mischief in the Fourth Degree when, having no right to do so nor any reasonable ground to believe that he or she has such right, that person intentionally damages property of another person.

The following term(s) used in that definition has/have a special meaning:

Intent means conscious objective or purpose. Thus, a person **INTENTIONALLY** damages the property of another person when that person's conscious objective or purpose is to damage the property of another person.

For you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case beyond a reasonable doubt, both of the following two elements:

1. That on or about July 9, 2023, in the county of Franklin, the defendant, Cole McBride Thompson, intentionally damaged property of another person; and
2. That the defendant had no right to do so nor any reasonable grounds to believe he/she had such a right.

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of this crime.

### **REASONABLE DOUBT**

Although the People have the burden of proving that the defendant is guilty, this does not mean that the People must prove its case beyond all doubt and to mathematical certainty, nor must it demonstrate the complete impossibility of innocence. A reasonable doubt is a doubt that would cause a reasonably careful and sensible person to hesitate before acting upon a matter of importance in his or her own affairs. A reasonable doubt must fairly arise out of the evidence that was presented or out of the lack of evidence presented with respect to some element of the crime. A reasonable doubt must be a real doubt; it may not be an imagined one, nor may it be a doubt manufactured to avoid carrying out an unpleasant duty.

### **FALSE IN ONE, FALSE IN ALL**

If you decide that a witness deliberately testified falsely about a material point, [that is, about a matter that could affect the outcome of this trial,] you may for that reason alone choose to disbelieve the rest of his or her testimony. But you are not required to do so. You should consider

not only the deliberate falsehood but also all other factors bearing on the witness's credibility in deciding whether to believe other parts of [his] [her] testimony.

**DEFENDANT’S FAILURE TO TESTIFY – NO ADVERSE INFERENCE**

It is entirely up to the defendant in every criminal trial whether to testify. [He] [She] has an absolute right founded on the Constitution to remain silent. You must not draw any inference of guilt, or any other inference adverse to the defendant, from the fact that [he] [she] did not testify.

Exhibit 1



**Exhibit 2**





**Exhibit 3**



**Exhibit 4**



## Exhibit 5

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**Cole McBride Thompson**



July 9 at 8:43pm · 🧑🏻

After many, many long years of torment, today a jerk who has bullied me since as long as I can remember finally got some small amount of comeuppance for all the years of torment. Hope having your brand new iPhone smashed and drowned hurt as much as it looks like it does. I know my foot sure hurts...




Beck Pitman and 8 others

0 Comments

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