

Yellowhammer, where he purchased three items: a Faberge Egg, an oil painting titled "Twilight Path", and a German beer stein.

6. After leaving the auction, Plaintiff visited a nearby bar to celebrate his purchases but consumed no alcoholic beverages.

7. Plaintiff then drove to a fast food restaurant, purchased a milkshake, and placed it in his vehicle's cup holder.

8. While stopped at a red light on Holloway Boulevard, Plaintiff's vehicle was violently struck from behind by a UPXS delivery truck.

9. The collision caused the milkshake to spill across the painting, irreparably damaging it, and caused the Faberge Egg to dislodge from its container and shatter against the dashboard.

10. Investigation revealed the UPXS truck's brakes had completely failed.

11. UPXS's maintenance records showed the truck was approximately eighteen (18) months overdue for required maintenance and that multiple drivers had reported brake issues, including grinding and loss of responsiveness, over the preceding three months.

12. As a result of the collision, Plaintiff suffered damage to his personal property, including the destruction of the painting and the Faberge Egg.

13. UPXS has paid for damage to Plaintiff's vehicle but has refused to compensate him for the loss of the painting and the Egg.

COUNT I - NEGLIGENCE

14. Plaintiff realleges Paragraphs 1-13 as if fully set forth herein.

15. UPXS owed a duty to the motoring public, including Plaintiff, to operate and maintain its delivery vehicles in a reasonably safe condition.

16. UPXS breached that duty by failing to properly maintain its delivery truck's brakes despite being on notice of repeated problems.

17. As a direct and proximate result of UPXS's negligence, the collision occurred, and Plaintiff suffered mental anguish, physical anguish, and damage to his property.

COUNT II - WANTONNESS

18. Plaintiff realleges Paragraphs 1-17 as if fully set forth herein.

19. UPXS, with reckless indifference to the consequences, consciously and intentionally failed to perform required brake maintenance on its truck despite repeated reports of brake defects.

20. UPXS knew or should have known that operating the truck in such condition created a high likelihood of harm to others on the roadway.

21. As a direct and proximate result of UPXS's wanton conduct, the collision occurred, and Plaintiff suffered mental anguish, physical anguish, and damage to his property.

WHEREFORE, premises considered, Plaintiff demands judgment against UPXS for:

- a. The fair market value of the destroyed painting and Faberge Egg;
- b. Pre- and post-judgment interest;
- c. Costs of this action; and
- d. Such other and further relief as the Court deems just and proper.

Respectfully Submitted on May 1, 2024,

By: /s/ Diggory Doo
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Attorney for Plaintiff

PLAINTIFF DEMANDS TRIAL BY STRUCK JURY

13. Defendant denies the allegations in paragraph 13.

COUNT I - NEGLIGENCE

14. Defendant realleges its answers to Paragraphs 1-13 as if fully set forth herein.

15. Defendant denies the allegations in paragraph 15.

16. Defendant denies the allegations in paragraph 16.

17. Defendant denies the allegations in paragraph 17.

COUNT II - WANTONNESS

18. Plaintiff realleges Paragraphs 1-17 as if fully set forth herein.

19. Defendant denies the allegations in paragraph 19.

20. Defendant denies the allegations in paragraph 20.

21. Defendant denies the allegations in paragraph 21.

22. To the extent necessary, Defendant denies all the remaining allegations in the Complaint.

AFFIRMATIVE DEFENSES

23. Without waiver of the foregoing but in addition thereto, Defendant affirmatively pleads that the accident at issue was caused in whole or in part by the negligence of the Plaintiff in the following respects:

- a. Failing to properly secure his property in his vehicle;
- b. Operating his vehicle while intoxicated; and
- c. Falling asleep at the wheel of his car while operating it.

PRAYER

WHEREFORE, Defendant Requests that upon final trial that Defendant have judgment, that Plaintiff take nothing by his suit, that Defendant be discharged from any and

all liability, that Defendant recover court costs, and for such other and further relieve, at law or in equity, general or special, to which Defendant may show itself justly entitled.

Respectfully submitted,

By: /s/ Dennis Wynn
Dennis Wynn
State Bar No. 00045896
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Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant's Answer has been served by certified mail, return receipt requested on this the 1st day of June, 2024.

By: /s/ Dennis Wynn
Dennis Wynn

STIPULATIONS AS TO EVIDENTIARY MATTERS

1. Federal Rules of Civil Procedure and Federal Rules of Evidence apply.
2. Assume all evidence and testimony in this pack has been admitted without objection.
3. Other than what is explicitly established through the evidence in this packet, there is nothing exceptional or unusual about the background information of any of the witnesses that would bolster or detract from their credibility.
4. This competition does not permit a competitor to “invent” an individual not mentioned in this problem and introduce testimony or evidence offered to the court or jury from that “invented” individual.

APPLICABLE LAW

1. Yellowhammer is a modified comparative negligence state, and a plaintiff is entitled to recover damages only if they are found to be less than 50% at fault for their injury or damages. Further, their recovered damages may be reduced in proportion to the degree that they were at fault.

2. 49 CFR Section 392.1 Provides as follows:

- (a) The purpose of this part is to ensure the safety of common carrier motor vehicles engaged in interstate and intrastate commerce by establishing minimum inspection, repair, and maintenance requirements.
- (b) These regulations apply to all motor carriers operating commercial motor vehicles with a gross vehicle weight rating (GVWR) of 10,001 pounds or more.

3. 49 CFR Section 392.5 Provides as follows:

(a) General Requirement.

Motor carriers shall establish and adhere to a preventive maintenance schedule for each vehicle in their fleet to ensure the vehicle's mechanical systems remain in safe operating condition.

(b) Minimum Service Intervals.

(i) Brake Systems:

Inspected every 90 days or 15,000 miles, whichever comes first.

Brake lining thickness must meet manufacturer specifications; worn or damaged components must be replaced immediately.

(ii) Steering Components:

Inspected every 90 days or 15,000 miles for looseness, wear, or damage.

(iii) Tires:

Inspected weekly for tread depth and damage; tread depth must be at least 4/32 of an inch on steering axles and 2/32 on other axles.

(iv) Lighting and Electrical Systems:

All required lamps, reflectors, and turn signals inspected every 30 days.

(v) Fluid Systems:

Engine oil, coolant, transmission fluid, and brake fluid levels checked weekly.

4. 49 CFR Section 392.9 provides as follows:

(a) Maintenance Logs.

Each carrier must maintain a maintenance log for each vehicle, recording:

- Date of inspection or repair
- Components inspected or serviced
- Results of inspection
- Name of mechanic or technician performing work

(b) Retention.

Maintenance logs must be retained for 24 months from the date of the most recent entry and made available to enforcement authorities upon request.

5. 49 CFR Section 392.11 provides as follows:

A commercial motor vehicle shall be placed out of service if either:

- (a) Any brake component exhibits leakage, binding, or other mechanical failure that compromises stopping ability, or
- (b) The vehicle's brake performance is reduced such that stopping distance exceeds 250 feet from 60 mph under test conditions prescribed by the Federal Motor Carrier Safety Administration (FMCSA).

6. Yellowhammer has fully adopted these regulations.

WITNESS AND EXHIBIT LIST

Witness List

1. Charles Danning
2. Marcus Clay
3. Peter Hanley
4. Emily Ward
5. Dr. Evelyn Carroway
6. Dr. Samuel Wexler
7. Officer Ryan Melton

Exhibit List

1. Auction Listings
2. Picture of Interior of Plaintiff's Car
3. Auction House Receipt
4. Security Camera Images
5. Bar Receipt
6. UPXS Maintenance History
7. BAC Decline Graph
8. Picture of Interior of Plaintiff's Kitchen
9. Federal Regulations
10. DOT Enforcement Action

**TRANSCRIPT OF TRIAL TESTIMONY OF
PLAINTIFF CHARLES DANNING
October 2, 2025**

Questioning by Plaintiff's Counsel:

- 1 Q: Please state your name for the record.
- 2 A: Charles Danning.
- 3 Q: Were you the winning bidder at an auction held by Webilough & Salhai LLP on
- 4 April 12th of last year?
- 5 A: Yes, I was.
- 6 Q: What did you purchase?
- 7 A: A Faberge Egg, a painting called "Twilight Path," and a German beer stein.
- 8 Q: How were those items packaged when you received them?
- 9 A: The Egg and stein were each in a locked plastic case with foam padding. The
- 10 painting was packed in a wooden crate.
- 11 Q: What happened as you were leaving the auction house?
- 12 A: I was trying to rearrange them in my car, and I dropped the beer stein. It hit the
- 13 ground and shattered.
- 14 Q: Did you speak to anyone from the auction house about that?
- 15 A: Yes. An employee came out when he heard it. I told him it was the stein, that it was
- 16 my fault, and I cleaned up the glass before I left.
- 17 Q: At that point, did you still have the Faberge Egg and painting in your car?
- 18 A: Yes, both of them were still in the car.
- 19 Q: Where did you go after leaving the auction house?
- 20 A: I went to a bar nearby called The Goat & Gristle to catch some Pickleball.
- 21 Q: Did you drink alcohol there?
- 22 A: No, I didn't. I was with some friends who were drinking while watching the Pickleball

1 games, but I stuck to soft drinks.

2 Q: I've seen some receipts for drinks that you paid for at the bar. Were those drinks for
3 you?

4 A: No, as I stated, I met some friends at the bar and I believe I bought them several drinks
5 and, maybe, some chips and salsa.

6 Q: What did you do after leaving the bar?

7 A: I drove to Shakeys, bought a milkshake, and put it in my cup holder.

8 Q: What happened next?

9 A: I was stopped at a red light when a UPXS truck slammed into me from behind. The
10 milkshake flew out and spilled all over the painting, and the Egg popped out of its
11 case and smashed against the dash.

12 Q: Did you remain at the accident scene?

13 A: No. I was shaken up and decided to take an Uber home.

14 Q: What happened later?

15 A: About nine hours later, the police came to my house and arrested me.

16 Q: Did you drink any alcohol at home before the police arrived?

17 A: Yes. I had a couple of drinks to calm my nerves after the accident.

18 Q: When the police arrested you, do you know what your BAC was?

19 A: They told me it was .08.

20 Q: Is it your testimony that the alcohol in your system came from those drinks you
21 had at home after the accident?

22 A: Yes, that's correct.

Questioning by Defense Counsel:

23 Q: Mr. Danning, you testified that you didn't drink at the bar, correct?

24 A: That's correct.

1 Q: But you were there for about two hours?

2 A: Yes.

3 Q: And during that time, friends of yours were drinking alcohol?

4 A: Yes.

5 Q: Did you at any point handle or take a sip from any alcoholic drink while you were

6 there?

7 A: No.

8 Q: We heard testimony from the Goat & Gristle bartender that you were slurring your

9 words and stumbling around so much that she had to cut you off. How do you explain

10 that?

11 A: I have one of those faces where I'm constantly being confused for other people.

12 Maybe she confused me for someone else at the bar?

13 Q: When you left the accident scene, you didn't call the police?

14 A: No, I didn't.

15 Q: You went home instead?

16 A: Yes. As I said, I called an Uber.

17 Q: You drank alcohol after you got home?

18 A: Yes.

19 Q: How much exactly?

20 A: Two drinks before I want to sleep and two drinks when I woke up after I realized how

21 much money I'd just lost.

22 Q: What type of alcohol?

23 A: Whiskey.

24 Q: And when the police tested you nine hours after the crash, your BAC was .08?

25 A: That's what they told me.

- 1 Q: You're asking the jury to believe that two drinks consumed over nine hours before
2 testing and then the two drinks immediately before drinking caused that .08 reading?
- 3 A: Yes.
- 4 Q: You don't have any receipts, photos, or witnesses to prove you didn't drink at the
5 bar, can you?
- 6 A: No.

TRANSCRIPT OF TRIAL TESTIMONY OF MARCUS CLAY (UPXS Driver)
October 1, 2025

Questioning by Plaintiff's Counsel:

- 1 Q: Please state your name for the record.
- 2 A: Marcus Clay.
- 3 Q: Mr. Clay, how long have you been employed by UPXS?
- 4 A: About seven years.
- 5 Q: On April 12th of last year, were you operating a UPXS delivery truck in Heninger?
- 6 A: Yes, I was.
- 7 Q: Did you have any issues with that truck prior to that day?
- 8 A: Yes. The brakes had been acting up for months.
- 9 Q: Can you describe those issues?
- 10 A: The brakes felt soft, like they took longer to grab. There was also grinding and
- 11 squealing.
- 12 Q: Did you report these issues to your supervisors?
- 13 A: Multiple times. I even marked it on the maintenance sheets.
- 14 Q: What happened on the day of the accident?
- 15 A: I was approaching a red light at Holloway Boulevard. I pressed the brake pedal and it
- 16 went straight to the floor. The truck wouldn't slow down.
- 17 Q: Did you attempt any evasive maneuvers?
- 18 A: I tried downshifting and steering, but I couldn't avoid hitting the car in front of me.
- 19 Q: Do you know who was driving that car? A: It was the plaintiff, Mr. Danning.
- 20 Q: After the collision, did you speak with police at the scene?
- 21 A: Yes. I explained the brake failure and my previous reports to UPXS.
- 22 Q: To your knowledge, was the brake problem verified later?
- 23 A: Yes. The mechanics confirmed the brakes had failed and the truck was overdue for

1 maintenance.

Questioning by Defense Counsel:

2 Q: Mr. Clay, you've driven dozens of UPXS trucks in your career, haven't you?

3 A: Probably.

4 Q: And this wasn't the only truck where you've heard some squealing in the brakes, right?

5 A: That's true.

6 Q: In fact, squealing can be a normal sign of brake wear, not necessarily a sign of
7 imminent failure?

8 A: It can be, yes.

9 Q: You never refused an assignment because of this truck's brakes, correct?

10 A: Correct.

11 Q: You continued driving it daily without any incidents for months before April 12th?

12 A: That's right.

13 Q: And prior to this accident, the brakes had never completely failed on you, had they?

14 A: No, they hadn't.

15 Q: You didn't make any emergency calls to dispatch that day before the accident to
16 report a brake issue, did you?

17 A: No, I didn't.

18 Q: So, your first and only total brake failure—in your nearly seven years of driving for
19 UPXS—occurred at the exact moment you struck the plaintiff's car?

20 A: Yes.

**TRANSCRIPT OF TRIAL TESTIMONY OF
PETER HANLEY (Auction House Employee)
October 2, 2025**

Questioning by Plaintiff's Counsel:

- 1 Q: Please state your name for the record.
- 2 A: Peter Hanley.
- 3 Q: Where are you employed, Mr. Hanley?
- 4 A: I work for Webilough & Salhai LLP Auction House in Heninger.
- 5 Q: What is your position there?
- 6 A: I'm a floor assistant. I help move and package items for buyers.
- 7 Q: Were you working on April 12th of last year?
- 8 A: Yes, I was working in the loading area.
- 9 Q: Did you have occasion to observe the plaintiff that day?
- 10 A: Yes, I did. He had just picked up a Faberge Egg, an oil painting, and a German beer
- 11 stein.
- 12 Q: What did you see happen in the parking lot?
- 13 A: I heard a loud smash and some shouting, so I went outside. I saw Mr. Danning
- 14 bending over near his car with what looked like broken pieces of blue ceramic on the
- 15 ground.
- 16 Q: Did you speak to him?
- 17 A: Yes. He said he dropped the beer stein and that it was his fault. He was sweeping up
- 18 the pieces.
- 19 Q: Did you notice anything else?
- 20 A: Yes. I noticed one of the clear plastic cases and the wooden crate sitting on the
- 21 pavement. Both were open and empty.
- 22 Q: Could you see whether the painting or the egg were inside his car?
- 23 A: I couldn't see from where I was standing. I just saw the containers were empty.

1 Q: How long was he there before leaving?

2 A: Maybe five minutes after I came out. He cleaned up the shards and drove off.

Questioning by Defense Counsel:

3 Q: Mr. Hanley, you didn't actually see the egg, stein, or painting in the parking lot, did
4 you?

5 A: No, I didn't.

6 Q: You didn't handle them yourself after they left the auction floor, correct?

7 A: Correct.

8 Q: Is there a reason why those items were handed to the Plaintiff packed in crates and
9 containers?

10 A: It's because those items, well at least the Faberge Egg and the painting, were very
11 expensive, so it would not be prudent to transport those items without them being well
12 secured.

13 Q: When you went outside, you saw the containers which the items had been packed in
14 on the ground, correct?

15 A: That's correct.

16 Q: Do you know why the containers were on the ground?

17 A: From what I've learned, Mr. Danning removed the items from the container so they
18 would fit in the front of the car with him.

19 Q: You can't testify about the condition of the Faberge Egg, stein, or painting when the
20 plaintiff drove away, can you?

21 A: No, I can't.

22 Q: Is it possible, then, that it was the Faberge Egg, not the stein which was broken?

23 A: It's possible, I did not get close enough to Mr. Danning to get a good look.

**TRANSCRIPT OF TRIAL TESTIMONY OF
EMILY WARD (Goat & Gristle Employee)
October 2, 2025**

Questioning by Plaintiff's Counsel:

1 Q: Would you please state your name for the record?

2 A: Uh... Emily Ward.

3 Q: And where do you work, Ms. Ward?

4 A: I'm a bartender at The Goat & Gristle.

5 Q: Were you working there on April 12th of last year?

6 A: Yes, sir... it was... um... one of the busiest nights I can remember.

7 Q: What made it so busy?

8 A: The World Pickleball Championships were on the TVs, and... there was a team

9 from Garrison playing. The place was packed wall-to-wall. Everyone was yelling
10 and ordering drinks nonstop.

11 Q: Do you recall the Plaintiff, Mr. Charles Danning, being in the bar that day?

12 A: I think so, yes. Pretty sure it was him.

13 Q: Did you serve him any drinks?

14 A: Um... yes, I did.

15 Q: How many?

16 A: I... I'm not sure. It was chaos. Maybe... three? Four? Maybe more?

17 Q: Can you be more precise?

18 A: No, sir... I was running back and forth. I wasn't keeping a tally on just him.

19 Q: Did you see him actually drink those drinks?

20 A: Not really. I'd set them down and then someone else would be waving me over. I

1 didn't watch him take a sip.

2 Q: Could someone else have been drinking from those glasses?

3 A: Maybe. In a crowd like that, it's possible.

4 Q: Do you remember when he left?

5 A: No... I couldn't even tell you who left when that night. The whole bar was just...

6 constant noise.

Questioning by Defense Counsel:

7 Q: Ms. Ward, you served the Plaintiff multiple alcoholic drinks that night?

8 A: Yes.

9 Q: Did anything about him stand out to you before he left?

10 A: Later in the night, yes. I saw him kind of... weaving, and his speech sounded...

11 off.

12 Q: What do you mean "off"?

13 A: Slurred. Like he was having trouble getting the words out clearly.

14 Q: And later, you saw him stumbling?

15 A: Yes.

16 Q: You've been bartending for six years?

17 A: Yes.

18 Q: In your experience, stumbling and slurred speech are indicators of intoxication?

19 A: Yes, usually.

20 Q: And you cut him off because, based on your experience, you determined that he

21 was intoxicated?

22 A: Yes.

- 1 Q: You didn't keep track of who paid for each drink you served him, correct?
- 2 A: Correct.
- 3 Q: So it's possible other people bought him drinks?
- 4 A: Yes, especially with how busy it was that night.
- 5 Q: And it's possible he drank alcohol you didn't personally serve him?
- 6 A: Possible, yes.
- 7 Q: But you are certain you personally served him several alcoholic drinks?
- 8 A: Yes.

**TRANSCRIPT OF TRIAL TESTIMONY OF
DR. EVELYN CARROWAY (Plaintiff Expert)
October 2, 2025**

Questioning by Plaintiff's Counsel:

- 1 Q: Please state your name and occupation for the record.
- 2 A: My name is Dr. Evelyn Carroway. I am a forensic toxicologist.
- 3 Q: Can you describe your qualifications?
- 4 A: I hold a Ph.D. in forensic toxicology, have 22 years of experience, and previously
5 served as chief toxicologist at the Yellowhammer State Crime Lab.
- 6 Q: Were you asked to evaluate the plaintiff's blood alcohol content in this case?
- 7 A: Yes, I was asked to review the police reports, medical records, and witness
8 statements to determine whether the plaintiff's BAC of .08 nine hours after the
9 accident could be explained by post-incident drinking.
- 10 Q: What methodology did you use?
- 11 A: I applied standard retrograde extrapolation principles, considered known alcohol
12 elimination rates, and factored in the plaintiff's reported drinking timeline.
- 13 Q: Based on your analysis, what did you conclude?
- 14 A: It is my opinion that the plaintiff's BAC reading is consistent with the majority of
15 alcohol having been consumed after the crash, not before.
- 16 Q: Why is that?
- 17 A: At an average elimination rate of 0.015 to 0.020% per hour, a BAC of .08 after nine
18 hours would require a BAC at the time of the crash far higher than what the bar
19 consumption alone could produce if there was no post-incident drinking. The timeline
20 supports that he metabolized most or all alcohol from the bar before the test.
- 21 Q: How certain are you of your conclusion?
- 22 A: To a reasonable degree of scientific certainty in the field of forensic toxicology.

Questioning by Counsel for UPSX:

- 1 Q: Dr. Carroway, your conclusion depends on the plaintiff's claim that he drank
2 after the crash, correct?
- 3 A: That is part of the basis, yes.
- 4 Q: You weren't there to observe him drinking at home?
- 5 A: Correct.
- 6 Q: And if he didn't actually drink after the crash, your opinion would be invalid?
- 7 A: If there was no post-incident drinking, the interpretation would change.
- 8 Q: You relied on an average elimination rate, right?
- 9 A: Yes.
- 10 Q: And that average can vary significantly from person to person?
- 11 A: There is variation, yes.
- 12 Q: So it's possible his BAC could have been .08 nine hours later purely from drinking at
13 the bar?
- 14 A: It's possible, but unlikely based on the data I reviewed.

**TRANSCRIPT OF TRIAL TESTIMONY OF
DR. SAMUEL WEXLER (Defense Expert)
October 2, 2025**

Questioning by Defense Counsel:

- 1 Q: Please state your name and occupation for the record.
- 2 A: My name is Dr. Samuel Wexler. I am a physician specializing in forensic medicine
3 and toxicology.
- 4 Q: What is your background in alcohol impairment cases?
- 5 A: I have been a forensic consultant for 18 years, worked with the Garrison County
6 Prosecutor's Office, and have testified in over 120 trials involving alcohol-related
7 incidents.
- 8 Q: Were you asked to review the circumstances of the plaintiff's BAC in this case?
- 9 A: Yes, I reviewed police reports, witness testimony, and toxicology records.
- 10 Q: What did you determine?
- 11 A: That a BAC of .08 measured nine hours after an accident is not consistent with
12 sobriety at the time of the crash.
- 13 Q: Please explain your reasoning.
- 14 A: Based on accepted metabolism rates, for someone the size of the Plaintiff to have a
15 BAC of .08 nine hours later, their BAC at the time of the crash would have been in
16 the .20 to .25 range. This matches the description of heavy drinking by the Plaintiff at
17 the bar. It's consistent with someone with the same body weight as the Plaintiff
18 consuming 8-9 drinks over approximately two hours.
- 19 Q: Did you consider the plaintiff's claim that he drank after the crash?
- 20 A: Yes, but there is no independent corroboration of that claim.
- 21 Q: What is your ultimate opinion?
- 22 A: That the plaintiff was significantly impaired at the time of the crash due to his bar
23 drinking.

Questioning by Plaintiff's Counsel:

- 1 Q: Dr. Wexler, you never tested the plaintiff yourself?
- 2 A: Correct.
- 3 Q: You're basing your opinion on averages, correct?
- 4 A: Yes, established scientific averages.
- 5 Q: You agree people metabolize alcohol at different rates?
- 6 A: Yes, but within a fairly narrow range.
- 7 Q: And if the plaintiff did drink after the crash, your conclusion would change?
- 8 A: If he consumed a substantial amount afterward, it could affect the reading, yes.
- 9 Q: But you have no direct proof that he didn't drink after the crash?
- 10 A: No direct proof, only the lack of evidence supporting it.

**TRANSCRIPT OF TRIAL TESTIMONY OF
OFFICER RYAN MELTON (GARRISON POLICE DEPARTMENT)
October 2, 2025**

Questioning by Defense Counsel:

- 1 Q: Please state your name and occupation for the record.
- 2 A: Officer Ryan Melton. I'm a patrol officer with the Garrison Police Department.
- 3 Q: How long have you been with the department?
- 4 A: Twelve years.
- 5 Q: Were you involved in the arrest of the plaintiff, Charles Danning, in this case?
- 6 A: Yes, I was.
- 7 Q: When did that occur?
- 8 A: Approximately nine hours after the reported traffic collision on April 12th of last year.
- 9 Q: Where did the arrest take place?
- 10 A: At Mr. Danning's residence in Heninger.
- 11 Q: What was your purpose in going there?
- 12 A: To place him under arrest for leaving the scene of an accident and to administer a
- 13 chemical test for blood alcohol content.
- 14 Q: Did you make any observations about his home?
- 15 A: Yes. As part of my duties, I looked for any signs that he had been drinking recently.
- 16 Q: What did you see?
- 17 A: I didn't see any open bottles, cans, glasses, or cups that smelled of alcohol. No
- 18 liquor bottles, no beer containers, nothing in plain view that suggested recent
- 19 drinking. There were several beer steins on the counter which Plaintiff said were part
- 20 of his collection.
- 21 Q: Did you ask the plaintiff whether he had been drinking at home?
- 22 A: Yes, he told me he had a couple of drinks before I arrived.
- 23 Q: Did you find anything to corroborate that statement?

1 A: No, I did not.

2 Q: Did you conduct any searches?

3 A: I did not have a warrant, so I didn't search cabinets or closed areas. My observations

4 were limited to what was in plain view.

5 Q: Did you administer a BAC test?

6 A: Yes. It came back at .08.

7 Q: Based on your observations, did you see anything in his home consistent with

8 someone having just had "a couple of drinks"?

9 A: No.

Questioning by Plaintiff's Counsel:

10 Q: Officer Melton, you didn't have a warrant to search the home, correct?

11 A: Correct.

12 Q: So you couldn't open cabinets or look in the trash?

13 A: That's right.

14 Q: And you didn't arrive at his home immediately after the accident, did you?

15 A: No, it was about nine hours later.

16 Q: So during that time, any bottles or glasses could have been cleaned up?

17 A: That's possible.

18 Q: And your conclusion that you saw no signs of drinking was based only on what

19 was visible in the areas you were in?

20 A: Correct.

21 Q: You can't say for certain whether my client drank alcohol after the accident, can you?

22 A: I can't say for certain, no.

WEBILOUGH & SALHAI LLP AUCTION HOUSE

EXHIBIT 1

Lot No. 203

German Pewter-Topped Bierstein

Estimate: \$40 – \$60



Collectible 19th century-style bierstein with ninged pewier lid featuring ornate curvilinear designs and embossed floral motifs. Painted scene of German men raising mugs together at a rustic wooden table; dressed in colorful regional clothing.

Dimensions: 7 inches high, 3.75 inches diameter

Condition: Vintage-grade; minor chip on base

Provenance: Local estate sale

Included: Custom-molded acrylic display case
with 2 protective csm padding
on all sides.

WEBILOUGH & SALHAI LLP AUCTION HOUSE

Lot No. 118

Fabergé-Inspired Jeweled Egg

Estimate: \$3,500 – \$4,500



A striking decorative piece modeled after the famed Imperial Faberé Eggs of the late 13th century, This ornate decorative piece modied after the famed Imperial Fabergé Eggs with intricate guilloché preabrenal, Gold-tone beading and fillgree scroollwork defrae mnioure diamanons and cabochon-cut faux rubies. Spilitone.

Dimensions: 5.5 inches high, 3 inches diameter.

Condition: Excellent; no visible chips; cracks; or missing stones;

Provenance: Private collection.

Included: Custom-molded acrylic display case with
2 protective foam padding on all sides.
Locking clasp with key.

Webilough & Salhaili LLP Auction House

Lot No. 119



“Twilight Path” – Oil on Canvas Landscape

Estimate: \$95,000 – \$105,000

An evocative original oil painting depicting a quiet forest path at dusk, rendered in deep umber, violet, and muted gold tones. Etched with last warm light

Decorated with delicate brushwork and layered grad glazes.

Condition: Excellent; minor wear to the frame consistent with age.

Provenance: Private collection, Heninger, Yellowhammer; purchased directly from artist's estate in 2008.

Included: Protective wooden crate with custom internal supports, 2% foam padding, and locking latch.



Interior of Charles Danning's Car

EXHIBIT 2

WEBILOUGH & SALHAI LLP

AUCTION HOUSE

327 Culver Ave., Heninger, Yellowhammer 35208
Tel: (205) 655-0167 | Info@webiloughsalhai.com |
www.webiloughsalhai.com

Spring Fine Arts & Collectibles Auction – April 12, 2024

RECEIPT

Buyer Information

Charles Danning
3400 Middleton Rd., Suite 402
Heninger, Yellowhammer 32311

Paddle Number: #342

Lot No.	Description	Hammer Price	Buyer's Premium	Total per Lot
118	Faberge-Inspired Jeweled Egg	3,900.00	585.00	4,485.00
119	"Twilight Path" – Oil on Canvas	100,000.00	15,000.00	115,000.00
120	German Beer Stein	125.00	18.75	143.75
	Subtotal	104,025.00	15,603.75	119,628.75
	Total Buyer's Premium	15,603.75		\$119,628.75

Payment Method

Credit Card •••• 3992

Transaction ID 35271-004847

April 12, 2024

14.18

All purchases subject to the Terms and Conditions, available at the Auction House or on our website. All sales are final. All items sold "as-is, where-is" with no-guarantees or warranties, express or implied. Buyer is responsible for collection or delivery of items.

EXHIBIT 3

Auction House Receipt



Security Camera Photo 1

EXHIBIT 4



Security Camera Photo 2

THE GOAT & GRISTLE

2793 Main Street
Heninger, Yellowhammer
(205) 555-0174

Apr 12, 2024 Emily W
BAR 3 5:54PM


3 IPA Pints	\$21.00
3 Whiskey Sours	\$30.00
Chips & Salsa	\$6.00
Rum & Coke	\$9.00

Subtotal	\$66.00
Tax 10%	\$6.60
Total Before Tip	\$72.60
Tip	\$13.20

Total Paid \$85.80

Transaction: VISA ***** 1234

THANK YOU FOR VISITING!



12:46AM

Goat & Gristle Receipt

EXHIBIT 5

UPXS FLEET MAINTENANCE DIVISION

Vehicle Maintenance History Report

Vehicle ID:	TRK-4827	Make/Model:	UPXS Freightliner M2
Year:	2018	License Plate:	YHM-2849
Odometer:	412,586 miles	Assigned Route:	Heninger – East District

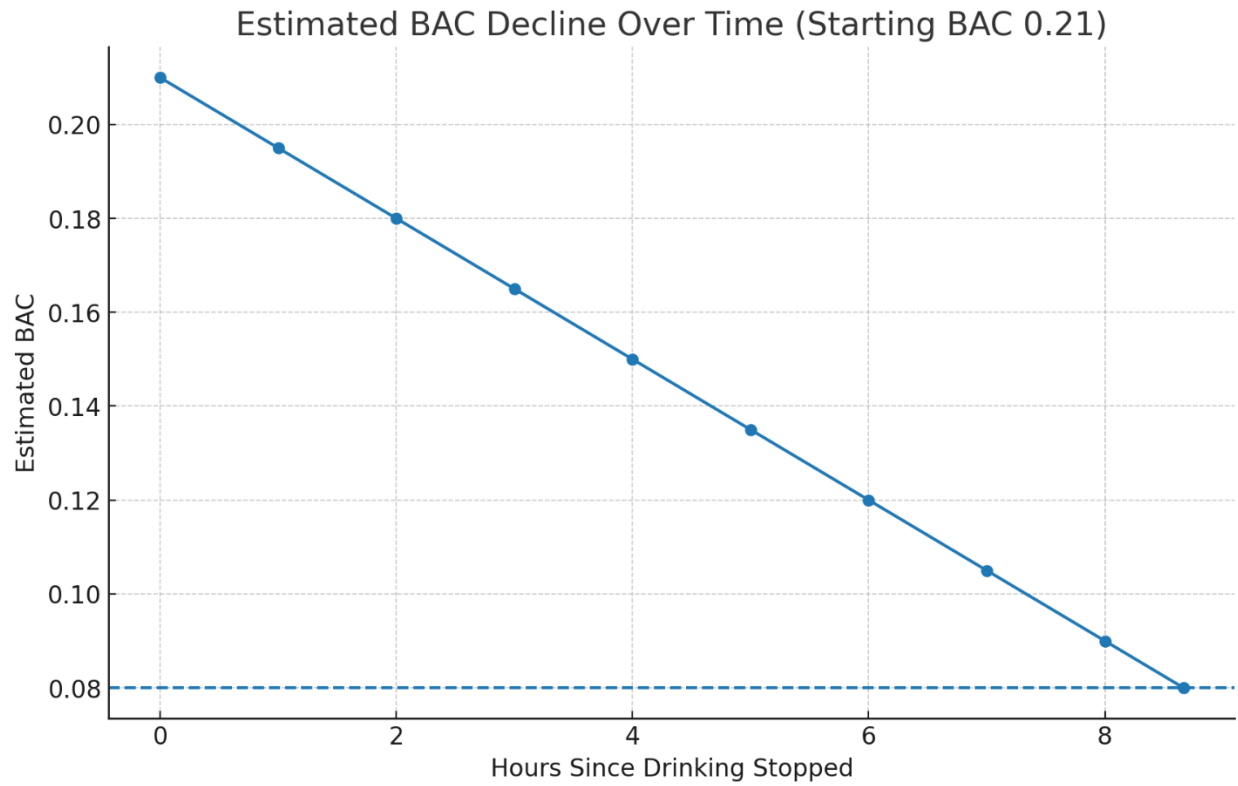
Maintenance & Incident History:

<i>Date</i>	<i>Service Performed</i>	<i>Mechanic Notes</i>
11/03/2022	Brake Inspection	Front pads worn – replacement recommended. Service declined by fleet manager.
01/12/2023	Oil Change	Routine service – no brake work performed.
03/15/2023	Driver Report	Brakes grinding – advised to monitor. No work order opened.
04/10/2023	Driver Report	Brakes increasingly unresponsive – request for service denied pending quarterly budget review.
05/02/2023	Annual Safety Inspection	Brake performance marginal. Recommended replacement of front rotors and pads; deferred.
06/18/2023	Driver Report	Brake fade on downhill stop. Supervisor notified. No repair authorized.
07/29/2023	Oil Change & Tire Rotation	No brake work performed.
09/08/2023	Driver Report	Severe brake fade – near-miss incident reported. Supervisor noted ‘Truck due for full brake job.’ No follow-up recorded.
01/22/2024	Driver Report	Reported severe vibration and extended stopping distance in wet conditions. No repairs made.
02/14/2024	Driver Report	Brakes grinding loudly, especially on downhill grades. Request for service denied due to delivery backlog.
03/28/2024	Driver Report	Reported loss of braking power during city route. Temporary routing change suggested but no repairs authorized.

Certification:

I certify that the above records are true and correct copies of the maintenance logs maintained by the UPXS Fleet Maintenance Division for Vehicle TRK-4827. Signed: _____ Date: _____

EXHIBIT 6



Dr. Wexler's BAC Decline Cart

EXHIBIT 7



Photo taken by Officer Ryan Melton on 4/13/2025 at the home of Charles Danning

EXHIBIT 8

Title 49 – Transportation
Chapter V – National Highway Motor Carrier Safety
Administration
Part 392 – Vehicle Inspection, Repair, and
Maintenance Standards for Common Carriers

§ 392.1 – Purpose and Scope

(a) The purpose of this part is to ensure the safety of common carrier motor vehicles engaged in interstate and intrastate commerce by establishing minimum inspection, repair, and maintenance requirements. (b) These regulations apply to all motor carriers operating commercial motor vehicles with a gross vehicle weight rating (GVWR) of 10,001 pounds or more.

§ 392.5 – Preventive Maintenance Schedule

(a) General Requirement. Motor carriers shall establish and adhere to a preventive maintenance schedule for each vehicle in their fleet to ensure the vehicle's mechanical systems remain in safe operating condition. (b) Minimum Service Intervals: 1. Brake Systems: - Inspected every 90 days or 15,000 miles, whichever comes first. - Brake lining thickness must meet manufacturer specifications; worn or damaged components must be replaced immediately. 2. Steering Components: - Inspected every 90 days or 15,000 miles for looseness, wear, or damage. 3. Tires: - Inspected weekly for tread depth and damage; tread depth must be at least 4/32 of an inch on steering axles and 2/32 on other axles. 4. Lighting and Electrical Systems: - All required lamps, reflectors, and turn signals inspected every 30 days. 5. Fluid Systems: - Engine oil, coolant, transmission fluid, and brake fluid levels checked weekly.

§ 392.9 – Recordkeeping Requirements

(a) Maintenance Logs. Each carrier must maintain a maintenance log for each vehicle, recording: - Date of inspection or repair - Components inspected or serviced - Results of inspection - Name of mechanic or technician performing work (b) Retention. Maintenance logs must be retained for 24 months from the date of the most recent entry and made available to enforcement authorities upon request.

§ 392.11 – Brake System Out-of-Service Criteria

A commercial motor vehicle shall be placed out of service if: 1. Any brake component exhibits leakage, binding, or other mechanical failure that compromises stopping ability. 2. The vehicle's brake performance is reduced such that stopping distance exceeds 250 feet from 60 mph under test conditions prescribed by the Federal Motor Carrier Safety Administration (FMCSA).

EXHIBIT 9

§ 392.14 – Enforcement and Penalties

(a) Civil Penalties. Failure to comply with this part may result in civil fines not to exceed \$10,000 per violation. (b) Criminal Penalties. Willful violations resulting in death or serious bodily injury may result in criminal prosecution under applicable federal statutes.

United States Department of Transportation

Federal Motor Carrier Safety Administration

Enforcement Report – Civil Penalty Assessment

Carrier: UPXS, Inc.

DOT Number: 0482716

Report Number: FMCSA-ENF-2024-1189

Date of Report: May 15, 2024

Prepared by: Office of Enforcement, FMCSA Region IV

EXHIBIT 10

Background

This enforcement action arises from a Department of Transportation investigation into a motor vehicle accident involving UPXS, Inc., which occurred on April 12, 2024, in Heninger, Garrison County, Yellowhammer. The accident involved a UPXS delivery truck that rear-ended a passenger vehicle while stopped at a traffic signal. The investigation revealed that the collision was caused by a total brake failure in the UPXS vehicle.

Findings of Fact

1. Maintenance records for the involved vehicle (Unit #TRK-4827) indicated that the truck was 11.5 months overdue for its federally required quarterly brake inspection as mandated under 49 C.F.R. § 392.5(b)(1). Multiple driver Vehicle Inspection Reports (DVIRs) submitted between January and April 2024 documented brake grinding, decreased responsiveness, and a spongy brake pedal feel. 3. UPXS maintenance logs show no corrective actions taken despite repeated driver reports. 4. The brake system exhibited significant wear on both front and rear brake assemblies, consistent with prolonged neglect.

Regulatory Violations

The investigation determined that UPXS violated the following federal regulations:

- 49 C.F.R. § 392.5(b)(1): Failure to systematically inspect, repair, and maintain all motor vehicles subject to its control.
- 49 C.F.R. § 392.11: Failure to remove a commercial motor vehicle with exhibited defective brakes out of service.

Penalty Assessment

Pursuant to 49 U.S.C. § 392.14, the FMCSA is authorized to assess civil penalties for violations of the Federal Motor Carrier Safety Regulations. Considering the nature, gravity, and circumstances of the violations, the FMCSA assesses a civil penalty of **\$10,000** against UPXS, Inc. This assessment reflects the seriousness of the maintenance failures while also taking into account the absence of evidence of willful or intentional misconduct.

Conclusion

The Office of Enforcement concludes that UPXS failed to maintain its vehicle in compliance with federal safety regulations, and such failure directly contributed to the April 12, 2024, collision. While the violations are significant, the evidence does not establish that UPXS willfully disregarded the regulations. Accordingly, the violations are classified as negligent, and the civil penalty assessed herein is deemed appropriate.

Prepared by: Hezekial J. Smiley

Date: May 15, 2024

**IN THE DISTRICT COURT OF HENINGER COUNTY
STATE OF YELLOWHAMMER**

CHARLES DANNING

Plaintiff,

v.

UPXS, Inc.,

Defendant.

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Case No. 24-009321-CV

FINAL JURY INSTRUCTIONS

Members of the jury, I shall now instruct you on the law that you must follow in reaching your verdict. It is your duty as jurors to decide the issues, and only those issues, that I submit for determination by your verdict. In reaching your verdict, you should consider and weigh the evidence, decide the disputed issues of fact, and apply the law on which I shall instruct you to the facts as you find them, from the evidence.

The evidence in this case consists of the sworn testimony of the witnesses, all exhibits received into evidence, and all facts that may be admitted or agreed to by the parties. In determining the facts, you may draw reasonable inferences from the evidence. You may make deductions and reach conclusions which reason and common-sense lead you to draw from the facts shown by the evidence in this case, but you should not speculate on any matters outside the evidence.

In determining the believability of any witness and the weight to be given the testimony of any witness, you may properly consider the demeanor of the witness while testifying; the frankness or lack of frankness of the witness; the intelligence of the witness; any interest the witness may have in the outcome of the case; the means and opportunity the witness had to know the facts about which the witness testified; the ability of the witness to remember the matters about which the witness testified; and the reasonableness of the testimony of the witness, considered in the light of all the evidence in the case and in light of your own experience and common sense.

The issue for your determination is whether injuries suffered by Charles Danning was the result of the negligence or wantonness, if any, of UPXS, Inc. In that regard, you are instructed that Mr. Danning has the burden of proof on his negligence and wantonness claims against UPXS, Inc., meaning that Mr. Danning must convince you by a preponderance of the evidence that his injuries were the result of UPXS, Inc.'s negligence or wantonness, if any. You are further instructed that, should you find that UPXS, Inc. acted negligently with respect to Mr. Danning, then UPXS, Inc. has the burden of proof on its claim that Mr. Danning's injuries were caused in whole or in part by the negligence, if any, of Mr. Danning himself. If, however, you find that UPXS, Inc. acted wantonly with respect to Mr. Danning, then you need not reach the issue of whether Mr. Danning acted negligently.

Negligence means the failure to exercise ordinary care under the circumstances. Ordinary care is the care that a reasonably prudent person would use in the same or similar situation. A person is negligent when they do something that a reasonably prudent person exercising ordinary care would not do, or when they fail to do something that such a person would have done. For the Plaintiff to recover, you must also find that this negligence was a proximate cause of the damages. Proximate cause means that the negligence was a substantial factor that, in a natural and continuous sequence, produced the injury or damage, and without which the harm would not have occurred.

Wantonness is more serious than negligence. Wantonness means the conscious doing of some act or the omission of some duty with reckless disregard of the rights or safety of others. A person acts wantonly when they are aware that their conduct will likely or probably result in injury, yet they act, or fail to act, in reckless indifference to the consequences. Like negligence, wantonness must also be a proximate cause of the Plaintiff's injury or damage before liability can attach.

"Ordinary care" means that degree of care that would be used by a person of ordinary prudence under the same or similar circumstances.

"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.

If you find that both the Plaintiff and the Defendant were negligent, you must assign a percentage of fault to each party, and the total must equal 100%. Under the law of this State, the Plaintiff can only recover if his share of the fault is less than 50%. If you find the Plaintiff is 50% or more at fault, he may not recover anything. If you find his fault is less than 50%, then he may recover, but his recovery must be reduced in proportion to the degree of his fault.

For example, if you decide that the Plaintiff's total damages are \$100,000 and you also decide that he was 30% at fault, then you must reduce his recovery by that amount. In that case, his recovery would be \$70,000.

If you find that the Defendant was negligent and that such conduct proximately caused the Plaintiff's damages, and if you find that the Plaintiff's share of fault is less than 50%, then you should award him damages in the reduced amount that reflects his share of fault.

Answer "Yes" or "No" to all questions unless otherwise instructed. A "Yes" answer must be based on a preponderance of the evidence unless you are otherwise instructed. If you do not find that a preponderance of the evidence supports a "Yes" answer, then answer "No." The term "preponderance of the evidence" means the greater weight and degree of credible evidence admitted in this case. Whenever a question requires an answer other than "Yes" or "No," your answer must be based on a preponderance of the evidence unless you are otherwise instructed.

At this stage of the trial, you are not to be concerned with how damages—if you find any are necessary and proper—are to be awarded.

**IN THE DISTRICT COURT OF HENINGER COUNTY
STATE OF YELLOWHAMMER**

CHARLES DANNING

Plaintiff,

v.

UPXS, Inc.,

Defendant.

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Case No. 24-009321-CV

JURY QUESTION NO. 1

Did the negligence of UPXS, Inc. proximately cause the injuries of Charles Danning?

Yes _____
No _____

JURY QUESTION NO. 2

Did the wantonness of UPXS, Inc. proximately cause the injuries of Charles Danning?

Yes _____
No _____

If you have answered “yes” with respect to **Jury Question No. 1**, answer the following Jury Question; otherwise, do not answer any more Jury Questions.

JURY QUESTION NO. 3

Did the negligence of Charles Danning, whether in whole or in part, proximately cause his own injuries?

Yes _____
No _____

JURY QUESTION NO. 4

What percentage of the negligence that caused the injuries to Charles Danning do you find to be attributable to each of those listed below and found by you, in your answers to Jury Questions Nos. 1 and 3 to have been negligent?

UPXS, Inc. _____

Charles Danning _____

Total 100%