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1 IN THE SUPERIOR COURT
2 OF THE STATE OF MONTANA
3 IN AND FOR CHEROKEE COUNTY
4
5 (HOMER A. FICTION, et al.,
6 (Plaintiffs,
7 (-vs- No. 712321
8 (MOUNTAIN CEMENT, et al.,
9 (Defendants.
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12
13
14 DEPOSITION
15 OF
16 HOMER A. FICTION
17 VOLUME I
18
19
20 Friday, Jul 19 2002

1 BE IT REMEMBERED that on Friday, July 19,
2 2002, commencing at the hour of 11:00 a.m., at the
3 Law Offices of Nelson, Falmore, Moran & Morrison,
4 1234 West Ensign Street, Joe, Montana, before
5 me, Ralph B. Quist, a duly licensed Certified
6 Shorthand Reporter in the State of Montana, appeared
7 HOMER A. FICTION,
8 a witness called by the Defendants in the before
9 entitled action, who, having been duly sworn by the
10 Certified Shorthand Reporter to tell the truth, the
11 whole truth and nothing but the truth, testified as
12 follows:
13 EXAMINATION BY MR. MORRISON
14 Q. Have you taken any pills or medication
15 of any kind in the last 24 hours?
16 A. No.
17 Q. Have you had any alcohol in the last 24
18 hours?
19 A. Sure, but not very much this morning.
20 Q. Is there anything that you're aware of
21 that would impair your ability to testify today?
22 A. No. Do you have a bathroom?
23 Q. Have you talked with either Officer
24 Jones or Officer Smith since the accident?
25 A. Yes.

1 APPEARANCES:
2 Mr. Baker Morrison, ESQUIRE
3 1234 West Ensign Street,
4 Joe, Montana 12345-6789
5
6 ATTORNEY FOR DEFENDANT
7
8
9 REPORTED BY:
10 Ralph B. Quist, C. S. R.
11 CERTIFIED COURT REPORTER & NOTARY PUBLIC
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1 Q. Okay. Which one did you talk with?
2 A. Officer Perry Jones.
3 Q. When did you talk to him?
4 A. Two weeks ago.
5 Q. Did you call him?
6 A. No. He called me. Officer Smith has
7 been trying to call me, too.
8 Q. What did you and Perry talk about?
9 A. He wanted to know if I got my truck
10 fixed yet. I told him it would be a long time until
11 I have it back from the shop.
12 Q. How many chickens got lost after the
13 accident?
14 A. 150 chickens ran away, and about 50
15 stayed in the truck. Some of them came back the next
16 day, I don't know how many -- all the smart ones did.
17 Q. When did you first notice the cement
18 truck that hit you?
19 A. When it was on top of the hood of my
20 pickup.
21 Q. You didn't see it or notice it until
22 after the accident?
23 A. That's right, it came out of nowhere
24 and just smashed my pickup. It smashed it real bad.
25 Q. Did you know that the cement truck

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1 was parked, with the engine off, and nobody was
 2 driving it when the accident occurred?
 3 A. No. Who says that?
 4 Q. You are asking over \$1,000,000 in
 5 damages for the accident, is that correct?
 6 A. Yes, but I wouldn't get all of the
 7 money myself, my attorney would get about -- um,
 8 I think he would get about \$660,000 of the money
 9 and I would get all of the rest of it. He came right
 10 over to the scene of the accident real fast after he
 11 heard the siren on the ambulance.
 12 Q. Your attorney is Dewey Cheatem, right?
 13 A. Yes.
 14 Q. Did he give you any instructions about
 15 what to say during this deposition?
 16 A. Sure, we talked about that more than
 17 all of the other stuff. He made real sure that I
 18 should say I still hurt real bad, but my girlfriend
 19 says I seem just fine to her. She doesn't like me
 20 driving around in her car, though. That makes her
 21 madder than me wrecking old blue.
 22 Q. Why did your attorney drop you off and
 23 rush off after coming here with you this morning?
 24 A. We heard about this other wreck on the
 25 radio driving up to the building, and he said that

1 about me, then I noticed that the chicken cage in the
 2 back of the truck was smashed some, and the door was
 3 open. A hundred and fifty got away. I bet Bruce was
 4 a leadin' the pack when they made their run for it.
 5 Anyways -- most of the chickens went right back home,
 6 because they're all real smart, and that, but Bruce
 7 never came back. He went out to make it on his own in
 8 the world I suppose. Old man Ike said he saw Bruce
 9 the next day over at the Office, and that's it.
 10 Q. The "Office"?
 11 A. The Office. That's the bar over by the
 12 bowling alley.
 13 Q. What was Bruce doing at the Office?
 14 A. Well, yeah -- 'ya silly. He was prob'ly
 15 trying to make some pin money.
 16 Q. How would Bruce make "pin" money at the
 17 Office?
 18 A. Playing tic-tac-toe with the hicks.
 19 Q. And he wins?
 20 A. Every time. No one has ever beat him
 21 Q. How much does he win?
 22 A. In July he won \$50.
 23 Q. What does Bruce do with the money he
 24 wins?
 25 A. I don't know.

1 he would be here as soon as he could.
 2 Q. Ok, I want to ask you a few more things
 3 about the \$1,000,000 you are asking for. You are
 4 claiming \$100,000 for a "Bruce". What is a "Bruce"?
 5 A. The Chicken.
 6 Q. The Chicken?
 7 A. Bruce. My chicken.
 8 Q. \$100,000 for a chicken?
 9 A. Yeah. What's wrong with that? Do you
 10 think it should be more?
 11 Q. How could a chicken be worth that much
 12 money?
 13 A. You don't know Bruce. Here, I have a
 14 picture of him in my wallet.
 15 **PLAINTIFF PULLS A PICTURE FROM HIS WALLET**
 16 This is Bruce. The one standing near the front.
 17 Q. Ok, so? It's just a chicken.
 18 A. Ever seen a chicken play tic-tac-toe?
 19 Q. You're kidding.
 20 A. Bruce played tic-tac-toe. He'd beat ya
 21 every time. Ever taken a 'lickin from a chicken?
 22 Q. What happened to Bruce?
 23 A. After the wreck, after the cement truck
 24 blammed into me -- I was knocked silly for a little
 25 bit. It took a little while for me to get my wits

1 **CERTIFICATE**
 2 I, Ralph B. Quist, Certified
 3 Shorthand Reporter and Notary Public in and for
 4 the County of Cherokee, State of Montana,
 5 hereby certify that the foregoing pages, and
 6 including this page, contain a true and correct
 7 transcript of the testimony of the witness, as
 8 taken by me at the time and place heretofore
 9 stated, and later reduced to typewritten form by
 10 computer-aided transcription under my supervision
 11 to the best of my skill and ability.
 12 I further certify that I placed the
 13 witness under oath to truthfully answer all
 14 questions in this matter under the authority
 15 vested in me by the State of Montana.
 16 I further certify that I am not in
 17 the employ of, or related to, any counsel or
 18 party in this matter, and have no interest,
 19 monetary or otherwise, in the final outcome of
 20 the proceedings.
 21 Witness my signature and seal this
 22 the 10th day of October, 1994.
 23
 24 Ralph B. Quist, CSR
 25 My Commission expires Dec. 31, 2010