

**COMMONWEALTH OF KENTUCKY
MCCRACKEN CIRCUIT COURT
CIVIL ACTION NO. 16-CI-00124
DIVISION NO. II
*ELECTRONICALLY FILED***

DERRIC HOVEKAMP and
LAURA CLAXTON

PLAINTIFFS

vs.

KEITH EADS, and
KERRY EADS (f/k/a BROTHERSON)

DEFENDANTS

TRIAL MEMORANDUM

Come now Defendants Keith Eads and Kerri Eads, by and through counsel, and for their Trial Memorandum, state as follows:

Factual Background

This is an action arising from a house fire at the residence of Derric Hovekamp and Laura Claxton, a married couple. The couple rented the home from Keith and Kerri Eads beginning on December 1, 2014, and remained as tenants in the home with their two young children until February 27, 2015, the date of the fire. Mrs. Eads lived in the home prior to renting it, and has owned the property, either individually or as a joint owner, for fourteen (14) years. The home was built in 1972.

There are essentially two (2) experts who have looked at the potential causes for this fire. The first report of flames were seen coming from the north wall of the garage. These flames were located where a small refrigerator was placed inside the garage.

Defendants hired Gary Woodall of Donan Engineering to conduct a fire investigation in the weeks immediately following the fire. Gary Woodall is the only expert witness who had the opportunity to be on scene in the house and to inspect the contents

of the fire. While at the inspection of the scene, Gary Woodall took possession of a receptacle from the garage wall along with the small refrigerator. These items were taken back to the laboratory of Donan Engineering in Louisville, Kentucky. All of these items were later tested for potential evidence which would demonstrate the cause of the fire.

The plaintiffs have hired an expert named John Pfeiffer of Pfeiffer Engineering Company, Inc. Mr. Pfeiffer has been able to inspect the equipment which was taken into evidence by Donan Engineering and review photographs which were taken by various persons of the fire.

Both experts have eliminated the electrical outlet as the cause of the fire. The plaintiffs' expert has identified an area which he believes is the most likely origin of the fire and believes that the fire was caused by a nail which penetrated wire insulation. Pictures reflecting the plaintiffs' expert's opinion are below. Mr. Pfeiffer actually circled the area where he thought the fire occurred with a green highlighter.





Mr. Gary Woodall will testify at trial that he has examined all of the evidence and believes the most likely cause of the fire was the refrigerator. Mr. Woodall's opinion is consistent with the burn patterns left in the garage. Specifically, the "V" pattern which is shown by the burnt materials and which leaves the refrigerator at the bottom of the "V" pattern.

WITNESSES

Defendants will call as its witnesses as follows:

- Kerri Eads – owner of the home;
- Keith Eads – husband of Kerri Eads;
- Gary Woodall – defense expert; and
- Larry Freeman – Lone Oak Fire Department Chief.

Additional witnesses may be called depending upon the plaintiffs' proof.

EXHIBITS

This case involves hundreds of pictures. The defendants will enlarge selected portions of these pictures for its presentation. The defendants are not likely to offer all of the pictures into evidence unless it becomes necessary for the jury's determination. Because the issues of damages involves what the plaintiffs actually owned in the house, there may be numerous pictures offered to simply help identify what the plaintiffs owned and did not own.

MOTIONS IN LIMINE

There is a Motion in limine and request for Daubert hearing. There is a request for Motion in Limine to limit the plaintiffs from introducing prejudicial information about the overall condition of the house or electrical system which is not alleged to have caused the fire. This motion will be expanded to include testimony from plaintiffs and witness, Jeff Estes. There is a request for Daubert hearing to challenge whether the plaintiffs' expert has enough information and can offer a scientifically reliable opinion on the origin or cause of the fire based upon his limited review.

PRESENTATION OF EVIDENCE TO THE JURY

This matter is slated for a two (2) day trial and the defendants have made arrangements to present Gary Woodall as a live witness on the May 22, 2019.

Respectfully submitted,

BOEHL STOPHER & GRAVES

/s/ Edwin A. Jones

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed electronically on this the 9th day of May, 2019, with the Clerk of the Court through the KYeCourts System which will serve notice of electronic filing on:

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/s/ Edwin A. Jones
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