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Illinois State Bar Association

424 South Second Street

Springfield, IL 62701

217/525-1760

Statement of Facts
ISBA 2001 High School Mock Trial
Committee on Law-Related Education for the Public

Patrick and/or Catherine O'Leary,)	
Plaintiff)	
)	
v.)	Case No. 01-IL-2001
)	
Danny Sullivan)	In the Circuit Court
Defendant)	of Lincoln County,
)	Illinois

The most widely known account of the Great Chicago Fire says that Mrs. O'Leary's cow kicked over the lantern in the family barn and started the fire. Whether this is true has come into question, not just recently, but even immediately after the fire was put out and investigations began. Neither the cow's role, nor Mrs. O'Leary's have been confirmed; however, it is true that the fire did start in the O'Leary's barn, which was located behind their home on DeKoven Street.

What is known is that at about 8:45 p.m. on the evening of Sunday, October 8, 1871, fire broke out in the barn of Patrick and Catherine O'Leary in Chicago. The fire spread quickly, and while it spared the O'Leary home, located on Chicago's West Side at 137 DeKoven Street, much of the rest of the city was destroyed.

Before dying out in the early morning of Tuesday, October 10, the fire had cut a swath through Chicago approximately three and one-third miles square in size. Property valued at \$192 million was destroyed, 100,000 people left homeless, and three hundred people lost their lives.

There had been almost thirty significant fires in Chicago during the first week of October in 1871. These were due, at least in part, to an unusual summer with above average temperatures and below average precipitation. One of these fires had destroyed a four square block area of the city and was only brought under control with the assistance of almost every fire fighter available in Chicago.

There are numerous other factors that contributed to turning what might have been an ordinary neighborhood fire into what came to be called a "hurricane of fire and cinders."

No matter what the origin of the fire, it is well known that even as the fire raged on the night of October 8, Mrs. O'Leary and her cow were being blamed for causing the fire that destroyed the heart of Chicago. This appears to have had its

origin in an October 9 extra edition of the **Chicago Evening Journal**: "The fire broke out on the corner of DeKoven and Twelfth Streets, at about 9 o'clock on Sunday evening, being caused by a cow kicking over a lamp in a stable in which a woman was milking."

Mrs. O'Leary ran a local milk business in her neighborhood. In her barn were five cows, a calf, and a horse. All but the calf were lost in the fire. The O'Leary's had planned ahead for the hard Chicago winters. That October, their barn contained at least two tons of hay, and two tons of coal that were stored in an adjoining shed south of the barn. Because their business was going so well, a new wagon stood nearby in the alley. The O'Leary property was not insured.

After the fire, Mrs. O'Leary was the brunt of continued allegations that it was she who had destroyed Chicago. She was portrayed in the press and in history books as the cause of the fire. After the fire, the O'Leary family was forced to move numerous times because of the damage to her reputation by these stories. Many members of the press and much of the Chicago public firmly believed that Mrs. O'Leary was at fault.

Mr. and Mrs. O'Leary steadfastly denied causing the fire. Both maintained that they were in bed at the time that the fire broke out. This was confirmed by a neighbor, Daniel Sullivan, who tried to rouse the O'Leary family after sighting the smoke and fire. Mr. Sullivan also testified that another neighbor named Regan came by while he was trying to notify the O'Leary family of the fire. Both Sullivan and Regan saw the O'Learys exit their home that evening. Mr. O'Leary came out with no shoes on and had obviously just thrown on his clothing. Mrs. O'Leary came out after her husband called to her. She was limping and was in her nightclothes.

The story of the cow and the lantern spread with the same intensity as the fire. The fire department, however, made no such determination. From November 23 through December 4, the Board of Police and Fire Commissioners held an inquiry, the purpose of which was to determine, among other things, the cause of the fire. Despite interviewing over fifty people, including the O'Learys and Daniel Sullivan, the Board failed to ascertain the fire's cause: "Whether it originated from a spark blown from a chimney on that windy night, or was set on fire by human agency, we are unable to determine." The Board later determined that "the origin of the fire could not be definitely arrived at, but from all the circumstances connected with the case, it is currently believed to have been set through the careless action of some person or persons, at present unknown."

As a minority--a woman, an immigrant, a Catholic--Mrs. O'Leary was the perfect scapegoat. At the time, the immigrant population in the United States was perceived as a shiftless underclass. The blame surrounding Mrs. O'Leary easily adapted the anti-immigrant and anti-Catholic sentiments that were prevalent at the time. As a poor Irishwoman, she was an easy target.

Witness List

PLAINTIFF WITNESSES

Mr/Mrs O'Leary
Mr/Mrs McLaughlin
Fire Marshal Williams

DEFENSE WITNESSES

Denys Regan
Danny Sullivan
Cat Sullivan (Danny's Parent)

Mr. and Mrs. O'Leary are suing Sullivan for property damage to home, barn, cows, etc., and intentional infliction of emotional distress.

Affidavit of Mr./Mrs. O'Leary

My name is Patrick/Catherine O'Leary. I lived at 137 DeKoven Street in Chicago the night the fire started. I used to run a neighborhood milk business.

We had five cows, a calf, a horse, a nice new wagon and plenty of hay and coal, most lost in the fire everyone says we started. We also have space in our barn to house cows for two of our neighbors. The Sullivan family owned one of the cows that was lost in the fire.

I can't think why people are blaming me and mine for the fire. We had no reason to start a fire. And, we had no reason to hide the fact if we had started the fire. If we had set it, it would have been an accident. If we'd started a fire, for whatever reason, accident or intentional, why on earth would we have destroyed our means of living? All the cows are dead. Only the calf survived the fire. We have no income to speak of. After the fire, and the stories about us starting the fire, our neighbors looked at us as if we are criminals. Our lives changed and I believe it was Danny Sullivan who orchestrated that change.

It was Danny Sullivan's conduct that ruined our lives. We can't go outside anymore without people calling us names. We've even had things thrown at us. My kids aren't safe in this city any longer.

We were in bed the night the fire broke out. It was early in the evening, but it had been a hot day and we were tired. We put our five children to bed after all our chores were finished and turned in ourselves at about 8:15 or 8:30. Our routine is to milk the cows, feed the horse and close them into the barn by 8:00 p.m. each evening. That we did. We were in bed listening to the noise from the neighbor's party. The McLaughlin's share our lot. A narrow passageway separates our houses. It was easy to hear the party, but it wasn't too loud. The weather was warm, but it was nice.

Then, quite suddenly, we heard a pounding on our door. We both threw something on and ran to the door. It was Danny Sullivan, a neighbor who had visited with us briefly earlier that evening. Danny told us our barn was on fire.

We got the kids into the street, put wet blankets over them, and ran to try to save the barn. By that time, the McLaughlin's and all their guests were trying to help us save our barn. Sullivan didn't do anything. After warning us about the fire, he/her just stood there watching. I even saw him/her smile.

Danny Sullivan has been in our barn hundreds of times. The Sullivan's cow is boarded there. We keep their cow a bit away from ours. That's mostly because one of our cows just had a calf and she's a bit temperamental. That's our Bossy. Sometimes she bites, sometimes she kicks. She's always been a bit of a handful, but she produces milk so we keep her.

Anyhow, Danny comes over almost every night to bring feed for their cow and sometimes help with the milking. We never let Danny milk Bossy. She's too much of a handful. Likes to kick things out of her way. It's like she has eyes in the back of her head. Can always tell where the milk pail is!

We never have kept the barn door locked. Maybe we should have. I'd be willing to stake my life that Danny was in our barn the night the fire started and either accidentally or intentionally started that fire then ran away, but came back so no one would suspect him. Maybe he got too near to Bossy with a lantern and that cow did something that caused the lamp to fall. I sure wouldn't put it past old Bossy. But Danny should have known to keep away from that cow.

I think Danny started to make up a story about sitting across the street, so far down the way by the White's house, when he realized he had started a fire that destroyed half the city of Chicago. It would be far easier to blame a woman than to stand up and take the blame.

When Danny Sullivan visited us earlier in the evening, it had been to pay the board money for the cow the family kept in our barn. Sullivan had been carrying a lantern. It was a dark night. Got dark early in October. Sun set was at about 6:30 I'd guess. There was no moon. You'd need a lantern to see the hand in front of your face. Person carrying a lantern, with a bad leg, could easily have lost balance and fallen. Sullivan could have easily been in our barn, with that lantern, and could have caused the fire. All I know for sure is I didn't cause that fire, and neither did anyone of my family. We were all inside the house, and had been for some time, when the alarm had sounded. With the weather the way it had been, so dry all summer, if we'd started that fire, no way it could have gone unnoticed for the hour or so we'd all been inside!

After the fire, I talked with the neighbors who would still speak to me. Some blamed us for the massive destruction. Others suspected different. Mr. and Mrs. McLaughlin said they had seen someone around our barn on the night of the fire. It was a person with a lantern. It was dark the night of the fire, with no moon, but they had seen someone with a lantern near our barn. The McLaughlin's were in their side yard saying goodbye to a guest. That was about a half-hour before we were awakened and told about the fire.

Danny Sullivan has been bragging that he/she saved our family by yelling fire and warning us. Danny's also saying that he/she had been inside the barn and had tried to save our cows and horse. If that's so, the efforts failed. Only the calf survived the fire.

I can't believe that Danny would have been able to enter the barn and struggle with the horse and cows and we wouldn't have heard. I also can't imagine how he could have seen the fire from way down the street, run to the barn, tried to save the animals, fallen down and escaped with no burns or injury at all.

We should have heard something. All our windows were open. We heard nothing until Sullivan beat on our door. Too late.

If he yelled, why didn't the McLaughlin's or the other neighbors hear him? All the neighborhood homes had opened windows. Many were still awake, as it

wasn't all that late. No one at the McLaughlin's party heard a thing. The music wasn't loud; someone should have heard the yell, if there was one.

Danny Sullivan also told us that he'd been sitting across the street, listening to the music from the party. But only two songs had been played on the fiddle and that had been earlier in the evening. There was no music after we went to bed.

And, from where Sullivan said he'd been sitting, he couldn't have seen the flames. From where he says he was sitting, you can't see our barn. There's a tall house blocking the view, and a fence. No one at the inquiry into the fire asked Sullivan these questions.

Now, when people are asking questions, Danny Sullivan is changing the story. Danny's telling people he/she was somewhere else when he/she saw the smoke and fire. And Danny's expanding on the story about trying to save our cows and horse. I think he/she's trying to turn him/herself into a hero. I think he/she's trying to cover something up.

Had I been in the barn and started the fire, wouldn't it make sense that I would have done something about it rather than come inside and go to bed? Goodness, anyone who knows us knows that we are a close family. There is no way I would put my family at risk by ignoring a fire. And I certainly wouldn't ignore one that could ruin us completely.

Since the fire and the stories began circulating, our family has moved twice. Each time we find a place to live, reporters find us and make our lives miserable. Everyone hates us. Our children have problems at school. None of us can sleep very well. I can't eat. I think it's all Danny Sullivan's fault too. Even if he didn't start the fire, he's the one who started spreading the rumor that it was my cow and I. Danny Sullivan completely disregarded me and my family in order to save his/her own skin.

Affidavit of Mr./Mrs. McLaughlin

My name is Mr./Mrs. McLaughlin and I live right in front of the O'Leary's house on DeKoven Street. Our houses are separated a narrow passageway. I believe there is a diagram that shows how close our houses are.

On the night of the fire, we were having a party for some of our relatives that had just arrived from Ireland. There were probably ten people visiting us at various times that evening. One of the visitors brought his fiddle and played a few songs. One or two songs, early in the evening. The fiddle playing stopped by 8:00 or 8:15 about a half-hour before we heard about the fire. We knew the O'Leary's were going to bed early. They had stopped by earlier in the evening and Mrs. O'Leary was not feeling well.

We tried to keep the party a little quiet out of respect for the neighborhood. Many of the homes are close by and we didn't want to bother anyone. It had been a hot day and we knew everyone would have their windows open.

During the party, everyone pretty regularly stepped outside to get some air. Like I said, it was hot. The guests all stayed on or near our front porch. Every time one of the guests went outside, either my wife/husband or me would go with them.

The O'Leary's stopped by early in the evening to wish us well. They didn't stay long because Mrs. O'Leary's foot was bothering her. And, they had to get home to do the evening chores. They keep cows and run a local milk business in the neighborhood.

We get along very well with the O'Leary's. That's a good thing, as we live so very close to each other.

The night the fire started, I went outside with some of our guests to get some air. It was after the fiddle had been put away. I'd guess that was about 8:00 or 8:15. We sat on and around the front steps for awhile. It was a hot evening. But by that time, the neighbors had pretty much gone inside for the evening. We didn't see anyone, other than Danny Sullivan who had just visited the O'Leary's house. He/She was leaving and standing in the O'Leary's side yard, near their barn when we went back inside.

I went back into the house and visited with our guests some more...then and it seemed like about a 20 or 25 minutes later, we heard all sorts of noise coming from the O'Leary's barn. Sullivan was trying to wake everyone up because there was a fire in the barn.

We all ran outside to help try to stop the fire. Everyone knew it had been hot and dry for a long time. And, the city had experienced too many fires during the past weeks. It seemed like there was a real problem with the weather and all of the wood houses in Chicago. There had been talk that it was a dangerous combination. It sure proved to be.

Pity about Mrs. O'Leary and the stories that are being told about her. Nice family. Careful too. Never had any kind of accidents like the one they're trying to pin on them. Careful. Always looking after their kids, their house and their stock. I would have thought that if one of the O'Leary's had started the fire by accident, or if the cow had, they would have raised an alarm immediately and fought like crazy to put it out. They wouldn't have gone inside and gone to bed. I'm 100% sure about that.

Affidavit of Bobbie A. Williams, Fire Marshal

The firestorm that started on October 8, 1871 was due in large part to an unusual summer with above average temperatures and below average precipitation. There had been about twenty-eight fires during the summer of 1871, most occurring in September and October.

What started out as an ordinary barn fire became an uncontrollable hurricane of fire and cinders.

The firemen were exhausted from fighting the series of fires that Chicago had experienced immediately before the Great Fire. Equipment wasn't in the best of condition. Communication, as always, was a problem. When we have to rely on the naked eye, people who are stationed at lookout posts and have to ring alarms when they spot a fire, there is plenty of room for confusion and miscommunication.

I think part of the problem the night this particular fire started was that Chicago was under an autumn haze combined with smoke from prior smoldering fires. Anyone could have made a mistake and sent fire fighters to the wrong location. Someone did on October 8. I don't think that really mattered all that much, when all was said and done.

At first, the original fire was nasty, but not a particularly bad one. With the help of more engines and volunteers, we could have knocked it cold. When the fire broke out in the O'Leary's barn, there was really no reason to think that this small neighborhood calamity would expand.

As Fire Marshall for Chicago, it is my responsibility to investigate serious fires in the city. This was done. I interviewed almost everyone from the DeKoven Street neighborhood where the blaze began. In addition, I went to the site as soon as it was feasible to review the damage and make my assessment.

I have been the Fire Marshall in Chicago for eight years. Prior to becoming Fire Marshall, I served as a fireman, then a fire chief of a local engine company. I worked my way up. I've seen 100's of fires, maybe thousands. Each is different. Each depends on various factors to grow. The Great Chicago fire had almost every factor going for it. From the weather to miscommunication. Everything went bad.

There have been rumors plenty about this fire. Some people insist that Mrs. O'Leary and her cow started the fire. Some say it was a neighbor or a friend of one of the neighbors who had been smoking near the barn. Could have been spontaneous combustion of the green hay. One newspaper even said there had been a sighting of a comet that could have started the fire. Nevertheless, the conclusions I reached were that it is impossible to tell who or what started that fire.

There are far too many questions. For instance, the O'Leary's insist that they

were in bed when the fire started. So far as I can tell, no one has disputed that. There is even some confirmation that when contacted the night of the fire, the O'Leary's both ran from their home in their nightclothes or in some form of undress.

One of the neighbors, Mr./Ms. Sullivan, says that he/she saw the smoke from the fire when he/she was sitting in front of a neighbor's fence. That raises some serious questions because given the property lines, where the houses and buildings were or are located, it just wasn't possible to see the barn from where this Sullivan says he/she was sitting.

Then there's another neighbor named Regan who was wandering around the neighborhood and says the reason for being outside all evening was that he was listening to the fiddle music from a neighbors house, that would be the McLaughlin's, but others testified that the fiddle had stopped much earlier in the evening. In fact, pretty much everyone at the McLaughlin's party said that there had only been two songs played on the fiddle that evening.

After the series of inquiries that were held between November 23 and December 4, the only firm information we determined was that property valued at over \$190 million was destroyed and at least 100,000 people were left homeless. Countless businesses were destroyed as well. Worst of all, about three hundred people lost their lives in the fire or fighting it. We interviewed over fifty people, including the O'Leary's and their neighbors.

The Board of Police and Fire Commissioners, despite all the interviews, failed to determine the fire's original cause. Whether this fire started from a spark blown from a chimney on that night or was set by some human being, we were unable to determine. The origins of the fire, in my personal and professional opinion, must have started from some careless action by some person or persons, or was set intentionally.

This particular fire started inside the barn. If a flying cinder had set the fire, the roof would have been the first part of the building to catch fire. It wasn't. The fire started on the inside and turned up and out. We could tell that.

It seems funny now that the investigation didn't ask questions about the location of the neighbor named Sullivan. Looking at the diagrams of the neighborhood that were drawn up after the fire, and after reading the statements, it does seem confusing that Sullivan says the fire was visible from White's front fence, when there is no way that the fire could have been seen from that location. The sight lines just don't match up.

At the time I visited the site after the fire, it was hard to tell where houses had been. It isn't until you actually see this drawing of the neighborhood that questions come to mind. As I recall, the investigators had these diagrams to refer to, and they had visited the location on DeKoven Street. I can only guess that when we questioned the people, we were relying on our eye witness information after the fire and not these diagrams. Looking at a diagram isn't

the same as seeing the flat land that was there when we visited the location.

Whoever started that fire sure isn't going to tell anyone; not after seeing the massive destruction. First thing I'd do if I had a hand in starting this one, would be to think of a solid alibi for where I was and what I was doing.

The investigation did look into alibis stated by those most closely related to the fire and the fire scene. The McLaughlin's all had solid alibis, confirmed by each of their guests, and the guests all vouched for each other. The O'Leary family was all in bed, according to at least three sources, the O'Leary's themselves, Sullivan and Regan. Sullivan and Regan, on the other hand, were both out wandering around the neighborhood, and their actions were unaccounted for quite some time. Indeed, both Sullivan and Regan have some interesting gaps in their testimony. How could Sullivan have seen through buildings, and how could Regan be the only neighbor to hear Sullivan shouting the fire alarm?

Affidavit of Danny Sullivan

My name is Danny Sullivan. I am nineteen years old. I live on DeKoven Street, across from the O'Leary's. I lost my leg in a terrible railroad accident a few years back. Now I live with my Mother/Father and brothers. I do odd jobs around the neighborhood to help my family. I have a cart and a team of horses and I deliver things in the neighborhood.

On the night of the fire, I went across the street to the O'Leary's house to pay them for boarding our cow. We have room on our lot for our horses, but not enough room for the cow. That was at about 8:15 or so. I went inside when invited. When I got into their house, it was evident that Mrs. O'Leary was in bed. I asked if there was something wrong. They said no, but that Mrs. O'Leary was feeling unwell so the chores had been completed early and the family had gone to bed. I visited with Mr. O'Leary for a bit and then left. I guess I left by about 8:30.

When I left the O'Leary's, I took my lantern and went across the street and walked for a bit, past my house and sat down against a fence in front of the White's house. There's a nice view of the street from there. At least there was.

There was a house in front of the O'Leary's, the McLaughlin's. They were having a party and I stayed by the fence in front of the White's house for about twenty minutes listening to the fiddle music. Then I decided I'd go to bed. When I stood up, I saw a smoke that looked like it was coming from the O'Leary's barn. I got up and ran across the street and kept hollering fire, fire, fire. I couldn't run very well because of my leg. I could holler loud, but couldn't run. I ran for the barn. In all the excitement, I left my lantern in front of White's house. When I went back later that night it was gone. I haven't seen the lantern since.

When I passed the O'Leary's house, it seemed as if no one was hearing me so I yelled again, fire, fire, fire. Then I ran to the barn thinking I could get the cows loose and they could get out of the fire. The barn door wasn't locked. It never is. At first I tried to get our cow out, but I couldn't untie the knot. Then I worked on getting some of the O'Leary's cows free. The only cow I didn't try to save was Bossy. That cow's a holy terror!

The fire was at the east end of the barn's ground floor. When I got there, it hadn't reached the loft as yet. There was loads of smoke inside the barn. It was hard to tell what was actually on fire.

I knew a horse could not be gotten out of a fire without something over its eyes, but I didn't know about cows. I tried the best I could to save those animals but the place was too hot. I had to run when I saw the cows were not getting out. I was going along the right side of the wall. The boards were wet, my leg was slipping and I fell. I stood up again and I held on to the wall and made for the door. I realized that the O'Leary's hadn't heard me yell fire. That's when I banged on their door and woke them.

I did the best I could. I tried to save the cows and horse, and I woke up the O'Leary's. Now they're blaming me for the fire.

They think that because I was the first one to notice the fire, and the first one to do anything about it, I was also the person who started it. They seem hung up on the fact that when I left the O'Leary's house I walked past my house and sat in front of the White's house. I think that's pretty easy to explain. There's a nice grassy place in front of their fence. It's easy for me to hold onto the fence when I sit down and get up. I only have one leg and I need something to hold onto to keep my balance. That's why I was sitting there. No other reason.

Anyone could have gotten into that barn at any time. It was never locked. Someone from the McLaughlin's party could have snuck in there, someone from the neighborhood could have snuck in there, and someone from anywhere could have snuck in there and started that fire, on purpose or by accident. I don't blame them for not fessing up. Only a fool would admit to setting that fire! Not after all the destruction Chicago's seen as a result.

Affidavit of Denys Regan

My name is Denys Regan. I live at 112 DeKoven Street. I live on the South side of the street between Canal and Clinton streets. That's about one block East of the O'Leary's house. I live alone. I have no family in Chicago.

On the night of the fire, I spent most of the evening at my house, trying to stay cool. It had been an awful few weeks of hot, dry weather and everyone was very uncomfortable. Neighbors were outside until they went to bed almost every night, trying to stay cool.

I got pretty uncomfortable at about 7:00 or so and decided to take a little walk. The McLaughlin's were obviously having a party and I didn't want to bother them so I went to the O'Leary's house for a short visit. Spoke with Mr. and Mrs. O'Leary both. And a few of the kids as well. Nice family.

Mrs. O'Leary's foot was bothering her. She had it soaking in a pail of water when I came by. Said she was trying to sooth a pain and then she was going to do the chores and settle in for the night. Miserable being so hot and having a sore foot.

I heard a few fiddle songs being played by a guest at the McLaughlin's party. It was very nice music, I wish it had lasted longer but only a few songs were played.

Because the O'Leary's were getting ready to settle down for the evening, I went home at about 7:30 or so. I could hear another fiddle song as I walked home. I sat on my porch when I got to my house. By then it was well past full dark. Sun goes down at about 6:30 in the fall. Hard to see except for down by the McLaughlin's house. They had lanterns and candles in every window for the party.

On my way home, I stopped to chat for awhile with Danny Sullivan. He said he was outside taking a walk and listening to the music too and was on his way to the O'Leary's to pay them the board money for his family's cow that they keep in their barn. I remember joking with Danny about not going near that cow named Bossy. Bit Danny one time. Made him bleed like a pig.

I saw Danny limp past the McLaughlin's house toward the O'Leary's. I'd guess that was at about 8:00. I thought he/she was going to go directly there, but he must have walked somewhere else first. I should have told him that Mrs. O'Leary was planning on going to bed early because of her sore foot, but I forgot.

I went home and sat on my porch out front. I was still sitting on my porch at about 8:30 or 8:45. I wanted to hear more of the music. Sound seems to carry pretty well on these hot summer nights. It must have been at about 8:45 or later that I heard Danny Sullivan yelling that there was a fire. I ran back in the direction of the Sullivan's house and then I saw the flames shooting out of the windows of the O'Leary's barn.

I ran toward the fire and tried to pull the wagon away from the side of the building, but couldn't. The heat was just too bad. It was then that I wondered where the O'Leary's were. I ran to the house and saw that Danny Sullivan was pounding on their door. I joined in and when the door opened, both Mr. and Mrs. O'Leary came running out. Mr. O'Leary was buttoning his shirt and had no shoes on. Mrs. O'Leary had just thrown a shirt on over her nightgown. It was obvious that they had been in bed.

By then, the McLaughlin's and everyone from their party were outside as well, all of us trying to fight the fire. It was just awful. Nothing we did mattered.

I feel sorry for the O'Leary's, only their calf was saved. I feel sorry for the other folks in the neighborhood who are without their homes and goods. Heck, I feel sorry for the whole city of Chicago.

The O'Leary's house is fine. Funny thing. Seemed like the whole of Chicago was on fire and then every once in awhile there would be a house that was untouched.

Everyone's saying that a cow kicked over a lantern in the O'Leary's barn. Could have happened. Sure wouldn't put it past old Bossy! And, even the most careful person can make a mistake. Maybe Mr. or Mrs. O'Leary were in too much of a hurry to get to bed and left their lantern in the barn by mistake.

Affidavit of "Cat" Sullivan
Parent of Danny Sullivan

My name is Cat Sullivan, Danny Sullivan is my child. My family, lives across the street from the O'Leary's, on DeKoven Street in Chicago.

I don't know how that fire started. I only know my Danny is a good kid. I am a widow/widower. I have three children still living at home. Danny is the oldest. The other two children look up to Danny as an example and Danny is very aware of that. Danny has always been a good child. Very patient, kind and hard working.

That night I had been doing a lot of work in my own basement at the rear part of my house. Danny was upstairs most of the evening. I could hear the sound of Danny walking around every once in awhile. Breaks my heart to hear the sound of Danny walking; limping all around. Danny was hurt in a terrible accident a number of years ago. Lost part of his/her leg. Has a wooden brace now.

We ate our dinner that night in the basement. We lived most of our summer in that basement because it was so much cooler than upstairs. After dinner, Danny went out. That would have been at about between 7:30 and 8:00 p.m., I'd guess. That's when Danny always goes out. Very dedicated person, my Danny. Does what has to be done. Every night Danny takes feed over to the O'Leary's barn to feed our cow. We board the cow across the street in the O'Leary's barn. Danny feeds that cow morning and evening. Loves that cow, he does. Hates the O'Leary's cow named Bossy. They have to keep our cow on the opposite side of the barn from that old animal. Bossy bit Danny once. Nasty animal. Good milker though, they say.

I remember, I was washing up the dinner dishes. That was probably at about 8:30 or so. Maybe later. I had just started washing them when I looked out the window and thought I saw smoke. I thought, Good gracious, can the O'Leary's place be on fire?" I ran out of the house as fast as my old legs could carry me. I was so afraid. There had been so many fires in the city that summer.

I ran out the door, to our gate, and by that time, I could see that a second house was catching fire already. It was so dry, sparks were settling on roofs and starting fires just like that. It looked to me that the O'Leary's barn had been the first place the fire had gotten, then it skipped over to Mr. Dalton's house.

I was frantic, looking for Danny. I knew he would have gone to the barn to feed the cow. I was so afraid he'd not gotten out in time. Then I heard that Danny had been a hero. It was Danny who had woken up the O'Leary's and sounded the alarm about the fire. It was my Danny who worked to get the animals out of the barn. Saved the calf, he did. Fell and got hurt doing it, but didn't complain.

Danny is a good person. Always does what he/she is told to do. Never has

given me an ounce of trouble in all my life. Since the accident that took Danny's leg, Danny stays pretty close to home. Doesn't wander around much. Can't without feeling the pain of the brace rubbing. Danny works hard at home, with the kids. And, when he can, he works as with our two horses and the cart, helping people move things. It helps with the money around here.

I thought the world was on fire that night. It was awful. We lost our house and everything in it. We ended up with the clothes on our backs and that was all. Our cow died in the fire too. And now the O'Leary's are trying to blame the fire on Danny.

I don't know how anyone could blame Danny for anything. Danny's been through enough in this lifetime. Losing a leg, living with pain every day, working to help me all the time. Being a good example to his/her brothers. Never making me worry.

People are saying that maybe Danny dropped a match and that started the awful fire. Danny doesn't smoke. No need to have any matches when he/she went to the O'Leary's barn. Danny could find his/her way there and back with his/her eyes closed. No need to take our lantern... all Danny ever took when he went to the O'Leary's was the bag of feed. That was all. I wish I could prove that, but our lantern was lost in the fire. Along with everything else we owned.

If Danny was he/she was sitting at the White's house, leaning against the fence when the fire started, I believe it. Danny often sat there. It's nice and grassy and there's a fence for leaning. I remember, I was washing dishes that night. I was standing at the sink, looking out the window and saw that fire. That's the last sensible thing I can remember doing. Dishes.

STIPULATIONS

1. All maps provided in the packet are true and accurate.
2. All witness statements are true and accurate.
3. Fire Marshal Bobbie A. Williams, is stipulated to be an expert witness.
4. Stipulated that all witnesses have access to and are familiar with the Fire Marshal's report, exhibit A.

EXHIBIT A

Formal Report of Bobbie A. Williams, Fire Marshal
With regard to the fire that started on October 8, 1871.

After a series of inquiries held between November 23 and December 4, it was determined that: to date, approximately 300 people lost their lives in the fire or fighting it; property valued at over \$190 million was destroyed; and at least 100,000 people were left homeless. The Inquiry Board interviewed over fifty people, including the O'Leary's and their neighbors. The Inquiry Board determined that this particular fire started inside the barn at 137 DeKoven Street, Chicago, the property owned by the O'Leary family.

Contributing factors found:

Weather: Above average temperatures and below average precipitation in the City of Chicago. There had been about twenty-eight fires during the summer of 1871, most occurring in September and October.

Manpower: Firemen suffering from exhaustion from fighting the series of fires that Chicago had experienced immediately before the Great Fire.

Equipment: Equipment wasn't in the best of condition.

Communication:

Communication problems evidenced. Human failure may have played a part in the spread of the fire. People stationed at lookout posts were confused and miscommunicated. Some fire fighters were sent to wrong locations.

Possible Causes:

Spontaneous combustion of the green hay
Careless action by some person or persons
Arson/Set intentionally.

The Board of Police and Fire Commissioners, despite all the interviews, failed to determine the fire's absolute original cause.

JURY INSTRUCTIONS

3.04 Circumstantial Evidence

A fact may be proved by circumstantial evidence. Circumstantial evidence consists of the proof of facts or circumstances which leads to a reasonable inference of the existence of other facts sought to be established.

10.01 Negligence - Adult - Definition

When I use the word "negligence" in these instructions, I mean the failure to do something which a reasonably careful person would do, or the doing of something which a reasonably careful person would not do, under circumstances similar to those shown by the evidence. The law does not say how a reasonably careful person would act under those circumstances. That is for you to decide.

10.02 Ordinary Care - Adult - Definition

When I use the words "ordinary care," I mean the care a reasonably careful person would use under circumstances similar to those shown by the evidence. The law does not say how a reasonably careful person would act under those circumstances. That is for you to decide.

10.04 Duty to Use Ordinary Care - Adult - Definition

It was the duty of the defendant, before and at the time of the occurrence, to use ordinary care for the safety of the plaintiff and the plaintiff's property. That means it was the duty of the defendant to be free from negligence.

10.08 Careful Habits as Proof of Ordinary Care

If you decide there is evidence tending to show that the defendant was a person of careful habits, you may infer that he was in the exercise of ordinary care for his own safety and for the safety of others at and before the time of the occurrence, unless the inference is overcome by other evidence. In deciding the issue of the exercise of ordinary care by the defendant, you may consider this inference and any other evidence upon the subject of the defendant's care.

12.02 Concurrent Negligence Other Than Defendant's

More than one person may be to blame for causing an injury. If you decide that the defendant was negligent and that his negligence was a proximate cause of injury to the plaintiff, it is not a defense that some third person who is not a party to the suit may also have been to blame. However, if you decide that the sole proximate cause of injury to the plaintiff was the conduct of some person other than the defendant, then your verdict should be for the defendant.

14.01 Willful and Wanton Conduct - Definition

When I use the expression "willful and wanton conduct" I mean a course of action which shows actual or deliberate intention to harm, or which, if

unintentional, shows an utter indifference to or conscious disregard for a person's own safety and the safety of others.

14.02 Contributory Willful and Wanton Conduct - Definition

When I use the expression "contributory willful and wanton conduct," I mean willful and wanton conduct on the part of the plaintiff that contributed to cause the alleged property damage.

14.04 Duty to Refrain from Willful and Wanton Conduct - Defendant

It was the duty of the defendant, under Count _____ of the Complaint, before and at the time of the occurrence, to refrain from willful and wanton conduct which would endanger the safety of the plaintiff and his property.

15.01 Proximate Cause - Definition

When I use the expression "proximate cause," I mean any cause which, in natural or probable sequence, produced the injury complained of. It need not be the only cause, or the last or nearest cause. It is sufficient if it concurs with some other cause acting at the same time, which in combination with it, causes the injury.

21.01 Meaning of Burden of Proof

When I say that a party has the burden of proof on any proposition, or use the expression "if you find," or "if you decide," I mean you must be persuaded, considering all the evidence in the case, that the proposition on which he has the burden of proof is more probably true than not true.

21.02 Burden of Proof on the Issues - Negligence

The plaintiff has the burden of proving each of the following propositions:

First, that the defendant acted or failed to act in one of the ways claimed by the plaintiff as stated to you in these instructions and that in so acting, or failing to act, the defendant was negligent;

Second, that the plaintiff's property was damaged;

Third, that the negligence of the defendant was the proximate cause of the damage to the plaintiff's property.

If you find from your consideration of all the evidence that each of these propositions has been proved, then your verdict should be for the plaintiff.

On the other hand, if you find from your consideration of all the evidence that any of these propositions has not been proved, then your verdict should be for the defendant.

30.01 Measure of Damages - Personal and Property

If you decide for the plaintiff on the question of liability, you must then fix the amount of money which will reasonably and fairly compensate him for any of the following elements of damages proved by the evidence to have resulted from the wrongful conduct of the defendant,

b. Intentional Infliction of Emotional Distress/Pain and Suffering (30.05 and 30.05.01)

c. Property Damages and Loss of Earnings and Profits (30.07)

- a. Loss of Normal Life (30.04.02)
- 30.05 Measure of Damages - Pain and Suffering - Past and Future
The pain and suffering experienced and reasonably certain to be experienced in the future, as a result of the injuries.
- 30.07 Measure of Damages - Loss of Earnings or Profits
The value of time, earnings, profits lost and the present cash value of the earnings, profits, benefits reasonably certain to be lost in the future.
- 30.16 Measure of Damages - Damage to Personal Property--Loss Value
The reasonable rental value of similar property for the time reasonable required for the repair or replacement of the property damaged.
- 30.17 Measure of Damages -Damage to Real Property - Repairable Damage
The damage to real property, determined by the reasonable expense of necessary repairs to the property which was damaged and the value of loss of the use of the building for the time reasonably required for the repair, and the difference between the fair market value of the real property immediately before the occurrence and its fair market value immediately after the repairs.
- 35.01 Punitive/Exemplary Damages -Willful and Wanton Conduct
If you find that the defendant's conduct was willful and wanton and proximately caused injury to the plaintiff, and if you believe that justice and the public good require it, you may, in addition to any other damages to which you find the plaintiff entitled, award an amount which will serve to punish the defendant and to deter the defendant and others from similar conduct.
- 36.01 In Absence of Liability - No Occasion to Consider Damages
If you decide for the defendant on the question of liability, you will have no occasion to consider the question of damages.

COMPLAINT

Patrick and/or Catherine O'Leary,)	
Plaintiff)	
)	
v.)	Case No. 01-IL-2001
)	
Danny Sullivan)	In the Circuit Court
Defendant)	of Lincoln County,
)	Illinois

NOW COMES the Plaintiff, Catherine O'Leary and/or Patrick O'Leary, and in complaining of the Defendant, Danny Sullivan, states as follows:

1. That on October 8, 1871, Patrick and Catherine O'Leary were the owners of real property located at 137 DeKoven Street, Chicago, Illinois.
2. That on or about the night of October 8, 1871, the Defendant, Danny Sullivan, entered the barn owned by Catherine and Patrick O'Leary to feed his cow boarded at the O'Leary barn.
3. That at the aforesaid time and place, it was the duty of the Defendant to exercise ordinary care while in the Plaintiff's barn.
4. That at the time and place aforesaid, the Defendant was negligent as to the following acts and/or omissions:
 - A. Started a fire while in the barn which destroyed the O'Leary's barn, all contents, including cows, a horse, a buggy, coal and feed, and various and sundry equipment necessary to running their local dairy business;
 - B. Failed to report the fire to the appropriate officials who may have acted to save the O'Leary's property;
 - C. Was otherwise careless and negligent with an utter disregard for the safety of others.
5. That as a direct and proximate result of one or more of the Defendant's foregoing acts or omissions, the Plaintiffs have suffered injuries.
6. That Danny Sullivan willfully and wantonly began a course of action which shows actual or deliberate intention to harm, or which, if unintentional, shows an utter indifference to or conscious disregard for the O'Leary's safety, the safety of their property and the safety of others.

7. That Danny Sullivan, through his/her actions on October 8 at the O'Leary's barn did cause intentional infliction of emotional distress, not only in the past, but in the future lives of the O'Leary family and that the emotional distress has been experienced through Danny Sullivan's outlandish allegations that the O'Leary's started the fire.

8. That Danny Sullivan, through spreading the rumor that the O'Leary's and their cow started the Chicago Fire caused emotional distress that is certain to be experienced in the future.

9. That by starting the fire, Danny Sullivan caused the O'Leary's to lose their sole means of support through the loss of earnings and/or profits from their local dairy business. The value of time, earnings, profits lost and the present cash value of the earnings, profits, benefits of the business are certain to be lost in the future for some considerable time due to the damaged reputation of the O'Leary's have sustained.

WHEREFORE, Plaintiffs, Catherine O'Leary and/or Patrick O'Leary, respectfully requests judgment against Defendant, Danny Sullivan, for a sum in excess of Fifth Thousand and 00/100 (\$50,000) Dollars.

_____Patrick O'Leary

_____Catherine O'Leary

MAP

O'Leary Barn Shed

XXXXX	XXXXX
XXXXX	XXXXX
XXXXX	

	XXXXXX
	XXXXXX
	XXXXXX
	XXXXXX
	XXXXXX
	XXXXXX

Dalton House

O'Leary House

XXXXXX
XXXXXX
XXXXXX
XXXXXX
XXXXXX

XXXXXX
XXXXXX
XXXXXX
XXXXXX
XXXXXX
XXXXXX

McLaughlin House

Approximate Location
Where Sullivan sat in
front of White's House

DeKoven Street

XX

Sullivan Property

White
Property

NOTE: There are numerous websites on the Internet that discuss the Chicago Fire. We suggest visiting these and downloading additional maps and newspaper articles from the era.