

**IN THE CIRCUIT COURT OF YIG COUNTY, MISSOURI**

Jess Schuester

v.

Rose Hill Fine Arts Academy

Cause No. 2011CC - 00001

**STATEMENT OF THE CASE**

Plaintiff Jess Schuester ("Schuester") is 18 years old and a graduate of Rose Hill Fine Arts Academy ("Rose Hill"). Rose Hill is a private four (4) year High School located in Yig City, Missouri that emphasizes fine arts education.

Schuester brings suit against Rose Hill alleging invasion of privacy and false arrest. The lawsuit arises out of the Rose Hill's monitoring of Schuester's Facebook account in connection with a rivalry between Schuester and another student for the lead role in the school musical.

Prior to the events giving rise to this lawsuit, Schuester maintained a 3.0 out of 4.0 grade point average. Schuester participated in the Drama Club and Accapella Choir at Rose Hill.

Beginning in the fall of 2010, a new student by the name of Chris Jolfer ("Jolfer") enrolled in Rose Hill as a Junior. In the summer of 2010, Jolfer had moved from St. Louis to Yig City. Jolfer had trained at the Center of Contemporary Arts ("COCA") and was a very talented actor and singer. Jolfer joined the Drama Club and was selected to join the Accapella Choir.

In November of 2010, Rose Hill held tryouts for the annual school musical. Schuester and Jolfer both tried out for the lead in the musical. Jolfer beat out Schuester for the lead role which was announced on Wednesday, November 24, 2010. Schuester was extremely upset about not getting the lead role. Schuester posted several entries on Facebook expressing upset. One of Schuester's Facebook Friends, Jess Allen ("Allen"), became concerned that the postings were getting out of hand, and on Monday morning, November 29, 2010, approached Syl Lynch ("Lynch"), the Drama Coach, regarding the postings. After explaining what was posted on Facebook, Lynch asked Allen to borrow Allen's username and password to get on Schuester's home page to view the postings.

Allen felt somewhat uncomfortable with the request, but complied. After meeting with Allen, Lynch got on-line and viewed the postings. Lynch continued to monitor the postings during breaks during the day but nothing additional was posted.

The first practice for the musical was set to take place at the Rose Hill Auditorium on Monday, November 29, 2010 at 4:00 p.m. However, Jolfer did not show up for practice. Lynch tried to contact Jolfer by cell phone and at Jolfer's home, without success. Later that evening, Lynch learned from Jolfer's mother that Jolfer had been in an automobile accident and suffered serious injuries requiring hospitalization at KU Medical Center in Kansas City.

About 9:00 p.m. that evening, Lynch decided to get on-line and check Facebook postings by Schuester. Lynch saw a posting from 3:45 p.m. that afternoon by Schuester that said: "Looks like I will get that lead role after all, now that Jolfer will be laid up for awhile!" Lynch was surprised that Schuester would know about Jolfer's accident as of 3:45 p.m., and became suspicious that Schuester was somehow involved in the accident.

First thing Tuesday morning, Lynch reported the situation to the Principal, Sean Howard ("Howard"). Lynch requested, and Howard agreed, that Lynch would seek additional information concerning the accident and that, at the end of the school day, they would bring Schuester to Howard's office and try to get to the bottom of what happened. During the school day, Lynch called Jolfer's mother to check on Jolfer's condition and find out what they knew about how the accident had happened. Lynch learned that Jolfer was in and out of consciousness, but that from what they could determine at that point, it had been a one car accident. It was raining hard at the time of the accident and it was a cold rain, about 34 degrees outside. Jolfer had a vague notion of something coming into the lane, causing Jolfer to swerve. It was a two lane road with no shoulder. Jolfer's car veered off the road into the ditch and overturned. Jolfer could not provide any additional information concerning the situation.

Lynch also called the police officer that investigated the accident, Officer Jolley. Officer Jolley reported to Lynch that there were no witnesses, and no other vehicles at the scene of the incident when Officer Jolley arrived.

At the end of the school day, Howard called Schuester to the Principal's Office. Lynch and Howard were waiting for Schuester. Schuester denied any involvement in the accident. When confronted with the postings on Facebook, Schuester became angry, questioning how Lynch learned about those postings. Lynch did not respond. Schuester then explained that s/he knew about the accident because Schuester and a friend, Lynn Kovac ("Kovac") had happened on the scene of the accident after it happened driving home from school. The parties dispute the rest of what took place in the Principal's office that afternoon, but eventually, Howard called the police, who came and took Schuester to the police station for questioning. Ultimately, no charges were filed. However, Schuester hired an attorney and incurred attorney's fees. In addition, Schuester claims emotional distress as a result of the ordeal.

**Witnesses For Plaintiff Jess Schuester**

Jess Schuester  
Lynn Kovac

**Witnesses For Defendant Rose Hill Academy**

Syl Lynch  
Chris Jolfer

## Deposition of Jess Schuester

Comes now Jess Schuester, and having been first duly sworn upon his/her oath, testifies as follows:

My name is Jess Schuester. I reside at #12 Glee Lane, Yig City, Missouri. I am 18 years old. I am a graduate of Rose Hill Academy. I graduated in May of 2011. I am not currently enrolled in college. I am not currently working. I am unable to go to college or work because of the horrible events that took place at Rose Hill during my Senior year. I had planned to attend college, and had applied to the University of Missouri-Columbia, Westminster College in Fulton, Missouri, and the University of Kansas. I was accepted at all three schools, but was too emotionally distressed to start school this fall.

I attended Rose Hill Academy all four (4) years of high school. I used to love Rose Hill before all this happened. I did well in school, and had a 3.0 grade point average prior to the fall of 2010. I was in the Drama Club, and had starred in all of the plays and musicals beginning my sophomore year in high school. I expected to get the lead role in the school musical for my senior year. Everyone expected me to get it. I was the most talented person at Rose Hill. I also sang in the Accapella Choir for all four (4) years I attended Rose Hill. The Accapella Choir is the most elite choir at Rose Hill. I often performed solos in our concerts and competitions.

I do know Chris Jolfer. Chris started Rose Hill in the fall of 2010 as a junior. Chris has a good singing voice, but is not much of an actor in my opinion. I did compete with Chris for the lead role in the school musical in November of 2010. I thought my audition went very well. Chris did okay but is not nearly as talented as I am. I absolutely could not believe it when Chris got the lead role. I was very upset with Ms./Mr. Lynch. I heard from another student that Chris' parents had given a big donation to Rose Hill, and that there was political pressure to give Chris the lead.

I do not use illegal drugs. I do not abuse drugs. I have used alcohol before, but have never been under the influence of alcohol while at school or while at a rehearsal for any play or concert. I did go through outpatient alcohol treatment with successful completion of the program during the summer between my sophomore and junior years in high school. Absolutely no one except my parents and the health care providers knew about that treatment, and I have not had a problem with alcohol since completion of the program.

Exhibit 1 is a true and accurate summary of Facebook postings I posted in November of 2010. However, my Facebook page is not public and only my Friends should have access to the postings. I never authorized any of my friends to share my Facebook postings or provide others access to my Facebook postings. I admit that I was definitely upset when Jolfer got the lead in the musical. However, I am not a violent person and I have had no problems in school or with the law at all. I did not mean anything by my posts. I was simply venting my anger over the situation. After all, the best person should get the role. Parents should not be able to buy a role by donating money to the school.

There is a posting that I made at 3:45 p.m. on November 29, 2010. My friend Lynn Kovac and I actually came on the scene of the accident sometime after it happened, at about 3:15 p.m. We were headed home from school. I was driving my 2007 Honda Civic, which is white. When we came onto the scene, I was driving East on Highway 50. Exhibit 2 is a rough sketch, not to scale, of the area where the accident happened. When we arrived at the scene, I recognized Jolfer's car, a 2010 Chevy Camaro, red in color. It was overturned in a ditch, which would have been to my left as I was looking at it. I have no explanation for why Kovac would say it was on the right hand side. That was simply a mistake. And, the accident scene was west of the State Park Road. Kovac is not good with directions and doesn't pay attention when I am driving. I deny that we had been drinking or that I was under the influence of alcohol or any other substance at the time.

When we came onto the scene, an ambulance and two police cars were at the scene. We did not stop, but we did slow down. I couldn't see Jolfer, but knew the injuries would have to be serious just given the car being overturned and the damage to the car.

Kovac and I went to my house, and I got on the computer, logged onto Facebook, and posted the comment at 3:45 p.m. I guess I should have been concerned and upset about Jolfer being hurt in the accident, but I was still so upset about the injustice of Jolfer getting the role, that I wasn't thinking straight. I absolutely deny any involvement in the accident.

On Tuesday, November 30, 2010, I was called to the Principal's office at 3:00 p.m., the end of the school day. I was met and confronted by Lynch, the Drama Coach, and Howard, the Principal. Lynch accused me of causing Jolfer's accident. I absolutely denied any involvement. Lynch then confronted me with my Facebook postings. I became very upset about how Lynch would have gotten access to my Facebook postings. I was incensed. I told Lynch and Howard that Kovac and I happened on the scene. Lynch was yelling and in my face. I got up to leave. Howard blocked the door to the office and told me to sit down, stay put, and admit I was involved. I felt like I had no choice but to stay there. I was held against my will. I refused to say anything further, so both Lynch and Howard just continued to badger me and demand I admit I was involved in the accident. I sat there against my will for at least 45 minutes. At that point, a Yig City police officer arrived; put me in handcuffs, and took me to the police station. I was allowed to call my parents, who had a lawyer come and meet me at the station. I did not talk to the police. The lawyer got me released. I was not charged with a crime. The lawyer cost \$1,000.00.

I have suffered emotional distress as a result of the invasion of privacy and false arrest. I have not sought any type of treatment for my emotional distress. I have just tried to deal with it myself. I was completely humiliated and embarrassed. I cannot sleep. I don't want to socialize with my friends. I lost interest in school and in going to college. My days are empty. I am basically not functioning. Drama Club was my life and everything is ruined.

Jolfer sued me for injuries arising out of the accident. My insurance company, State Farm, handled the matter. I understand there was a settlement for policy limits of \$100,000.00, but I didn't have any control over that. I would not have settled. There was no admission of liability in the settlement.

### DEPOSITION OF LYNN KOVAC

Comes now Lynn Kovac, and having been first duly sworn upon her/his oath, states as follows:

My name is Lynn Kovac. I am 18 years old. I am currently a freshman at the University of Missouri-Columbia. I graduated from Rose Hill Academy in May of 2010. I was not involved in the Drama Club during high school. I have never taken a class taught by Syl Lynch.

I am good friends with Jess Schuester, who is the Plaintiff in this lawsuit. I have known Jess since third grade, when I moved to Yig City. I would say that we are best friends. Jess has stuck with me through thick and thin. By thick and thin, I mean that Jess would do anything for me, and I for Jess. But, that doesn't mean I would lie for Jess.

I do know that Jess had some problems with alcohol during high school. It seemed that Jess would start drinking at parties and just not be able to stop. It seemed worse during our sophomore year, and I did talk to Jess about it. Jess never told me about attending treatment, but Jess definitely didn't drink as much our junior year or senior year prior to losing the lead role in the school musical. Yes, by that I mean that after learning about not getting the lead, Jess started drinking pretty heavily. Jess would start right after school was out, and would have beer in the back of the car to drink. We would often go to a Yig County park off of Highway 50 after school where Jess would drink. I did not drink.

The area of the Yig County park we would go to is within ear shot of the scene of Jolfer's accident. School lets out at 2:45 p.m. On November 29, 2010, we met at Jess's car at about 2:50 p.m. Jess did get out a beer, a Bud Light, to drink in the car. Jess drove. We went to the park. Jess got another Bud Light when we got there at about 3:00 p.m. Jess got a third beer out of the back at about 3:10 p.m. We were talking, and then heard sirens coming towards the area. I freaked out and told Jess we needed to get out of the area. We left the park and exited onto Eastbound Highway 50. We immediately came on the scene of Jolfer's accident after traveling east for less than a mile. The scene was definitely not west of the entrance/exit of the state park. I recognized Jolfer's car. No one else at our school has a 2010 Red Camaro. Jolfer's car was in a ditch on the right side of the highway as we approached. It was approximately 3:35 p.m. when we came on the scene. The police and ambulance had just arrived. I did not see Jolfer, who was apparently still in the car.

Both Jess and I were upset and concerned about the accident and possible injuries to Jolfer. Jess was definitely upset about not getting the lead role, but would never wish ill will on Jolfer.

After coming on the scene, Jess took me home. I live about 5 minutes from the scene of the accident, and Jess just lives around the corner from me. I did not go to Jess's house. I talked to Officer Jolley and gave him a statement on December 1, 2010. I did not know about the Facebook posting until Jess told me about it on December 2, 2010, at the same time I learned about Jess being confronted and detained. I do not have a computer at home and had not accessed a school computer to view Facebook posts.

### **DEPOSITON OF SYL LYNCH**

Comes now Syl Lynch, and having been first duly sworn upon her/his oath, states as follows:

My name is Syl Lynch. I am 35 years old. I have been a drama teacher and coach with Rose Hill for ten (10) years, since the fall of 2001. I graduated from Webster University in St. Louis with a B.A. in Performing Arts in 1998. I obtained my Masters degree in Performing Arts from Webster University in 2000. Rose Hill was my first teaching/coaching job.

I deny any wrongdoing in connection with either choosing Chris Jolfer for the lead role in the school musical or in handling the issue of Jess Schuester's involvement in Jolfer's accident. I have not been disciplined or counseled in connection with either of the events.

Jolfer came to Rose Hill at the beginning of the 2010 school year. Jolfer is extremely talented as a singer, musician, and actor. I know that feelings get hurt when someone more talented comes on board, but the bottom line is that I must objectively pick the best person for a role, and in my view, Jolfer was the most talented person for the role. Frankly, I was not aware that Jolfer's parents gave a \$10,000 donation to Rose Hill in October of 2010. Apparently it was brought up in a staff meeting in October, but I was out sick that day. No one told me about it.

Exhibit 1 is a summary of Facebook postings by Schuester that I prepared from looking at the postings. I did learn about the postings from a student on November 29, 2010. I did ask the student for user name and password to access the account. I did not think there was anything wrong with what I did. I mean, the student could have accessed it and I could have looked over her shoulder. Let's face it, there is nothing private about Facebook postings. Also, if a student is engaging in threatening behavior, having access so that appropriate action can be taken is more important than a student being able to make threats against another student.

When I learned about the postings, I immediately took the issue to Principal Howard. Principal Howard completely agreed with my actions and agreed that I should continue to monitor the postings. At that point we did not feel that the postings warranted bringing Schuester in for questioning, but felt we should continue to check things out.

That afternoon was supposed to be the first rehearsal for the school musical. The rehearsal was set to start at 4:00 p.m. Jolfer did not arrive at the rehearsal. That was completely unusual from my perspective given my dealings with Jolfer. Jolfer is very responsible and was never late to class, auditions, or any meetings. I just knew that something had happened to keep Jolfer from attending. About 4:20 p.m., I called Jolfer at home and on the cell phone, with no answer. We went on with rehearsal without Jolfer, and I left school at about 5:30 p.m. and went home.

At approximately 8:30 p.m., I received a call from Jolfer's mom, who advised me of the accident and that Jolfer was airlifted to KU Med Center and admitted. She described the injuries as serious.

At 9:00 p.m. I decided to log on and access Facebook with the student user name and password I received. I saw the 3:45 p.m. posting on Exhibit 1 when I accessed the student's account. I was shocked. It was clear that Schuester was involved in the accident. How could Schuester otherwise have known that Jolfer was in an accident and injured as of 3:45 p.m.?

I went to Principal Howard first thing on the morning of November 30, 2010 and we agreed that I would find out more information about the accident and that we would bring Schuester in for questioning at 3:00 p.m. after the school day ended.

I did two things in following up to find out more information about the accident. I talked to Jolfer's mom, and I talked to the investigating police officer, Officer Jolley. Mrs. Jolfer told me that Chris was in and out of consciousness, but expected to survive. I asked Mrs. Jolfer whether Chris had said anything more about how the accident happened. She told me that Chris had told her about a vague feeling that something came in front of the car or across the road, but could not at that point describe it any further. Mrs. Jolfer told me that the car driving by Jolfer left the road, overturned and landed in a ditch on the south side of Highway 50.

When I spoke with Officer Jolley, he told me that he had been unable to locate any witnesses to the accident, and that there were no other vehicles at the scene when he arrived. I chose not to share the information from Schuester's Facebook postings with Officer Jolley. I did not share the information because Howard had told me we shouldn't accuse Schuester without talking to Schuester first.

In connection with this lawsuit I learned that Schuester and Lynn Kovac claim that Kovac was with Schuester at the time of the accident. I can tell you that there was no way that Kovac was with Schuester. I saw Kovac in the school cafeteria studying at 3:25 p.m.

when I was walking to the theater. There is no doubt that it was Kovac. There was no one else in the area when I saw Kovac.

### **DEPOSITION OF CHRIS JOLFER**

Comes now Chris Jolfer, and having been first duly sworn upon her/his oath, states as follows:

My name is Chris Jolfer. I am 17 years old and a Senior at Rose Hill. I missed school from November 30, 2010 through February 28, 2011 as a result of injuries sustained in an automobile accident that I had on November 29, 2010 on my way to rehearsal for the school musical.

I left home for the rehearsal at 3:15 p.m. My house is only about 2 minutes from Highway 50. I entered Highway 50 going Westbound. Highway 50 is a two lane highway, one way each way. At the point where I entered there was no shoulder on either side of the highway. Rose Hill is about a 7 minute drive from my house at that time of the day. It was raining and cold, but there wasn't much traffic on Highway 50.

I didn't get very far on Highway 50 when the accident happened. I don't remember much about the accident. But, I do remember that I saw a white flash coming from my right side across the highway from the State Park Road. State Park Road had a stop sign, and there was no traffic light for traffic on Highway 50. Exhibit 3 is a true and accurate summary of what I told the police on December 5, 2010. However, at the time I was still in and out of consciousness and since then have remembered additional information about the accident.

I have applied for entry into the Performing Arts program at Webster University in St. Louis next year. It is difficult to get into this program, and does require the endorsement of your Drama Coach in order to gain entrance into the program. Syl Lynch is the Drama Coach at Rose Hill, and has advised in October that an endorsement will be forthcoming; however, Coach Lynch has not yet provided the endorsement.

Exhibit 1 - Facebook Summary

Exhibit 2 - Scene Diagram

Exhibit 3 - Summary of Statement to Police by Chris Jolfer

Summary of Facebook Entries of Jess Schuester  
November 2010

November 9, 2010  
9:45 p.m.

“School musical tryouts tomorrow! I am so excited! This year is going to be the best! I love Grease!”

November 15, 2010  
9:30 p.m.

“Devastation! I was robbed. Can you believe this? Chris Jolfer got the lead. Really?”

November 16, 2010  
9:45 p.m.

“Heard today that Jolfer’s parents gave the drama department \$10,000 and bought the lead role.”

November 17, 2010  
11:45 p.m.

“My life is ruined. It is not fair. I hope Jolfer flops.”

November 18, 2010  
11:50 p.m.

“Life just isn’t fair. This is getting to me. I don’t know what I am going to do about it.”

November 20, 2010  
11:50 p.m.

“5 days without sleep. It makes you a little crazy. I keep imagining Jolfer on stage and it just isn’t right. This was my role, my senior year!”

November 21, 2010  
10:30 p.m.

“I am going to drink myself into oblivion.”



November 24, 2010  
11:00 p.m.

“Devastation still reigns.”

November 26, 2010  
11:50 p.m.

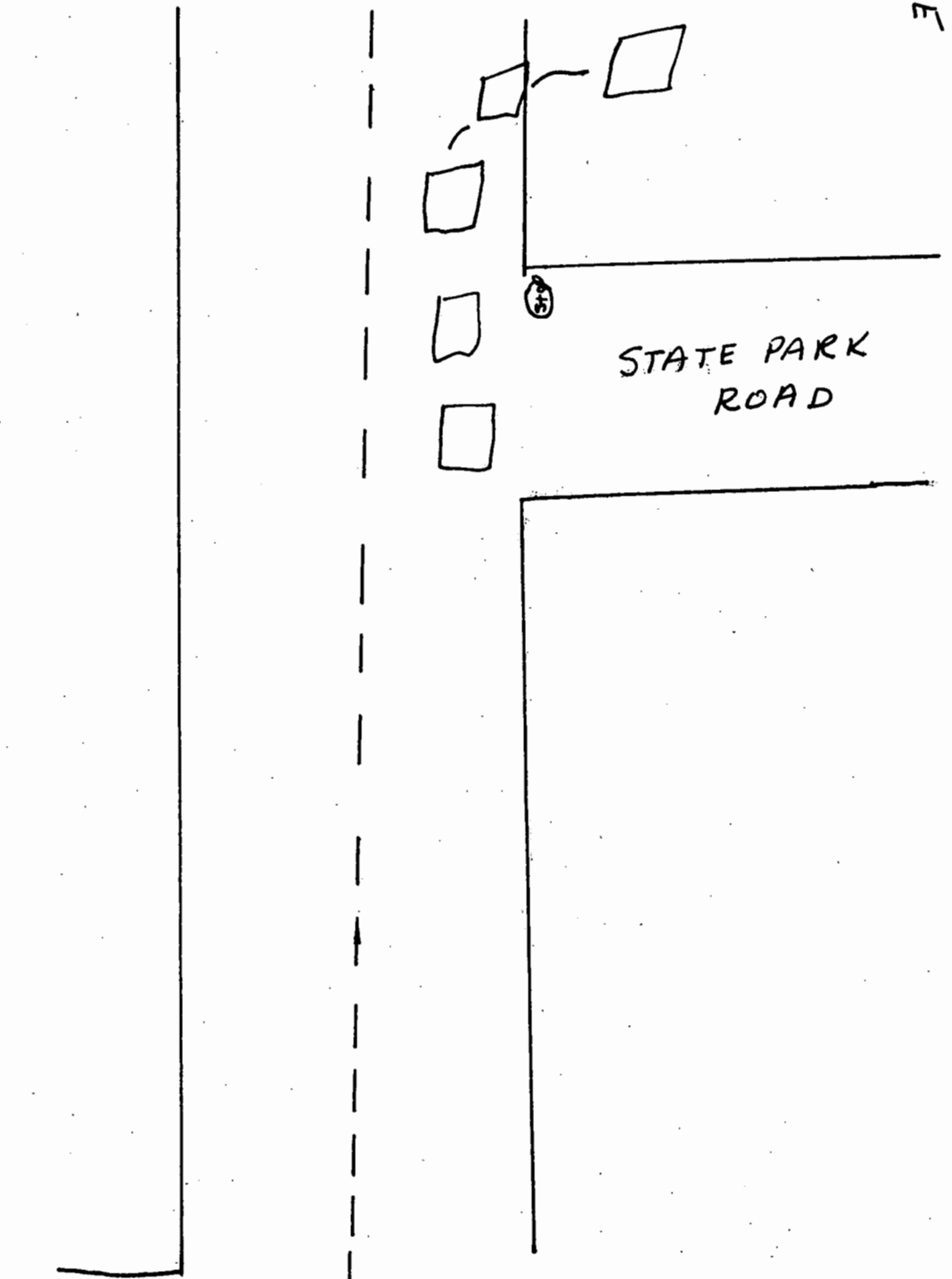
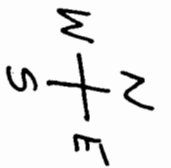
“Jolfer needs to pay! My life is ruined!”

November 28, 2010  
11:45 p.m.

“I need to do something to make sure Jolfer can’t fulfill the lead. This is killing me!”

November 29, 2010  
3:45 p.m.

“Wow. My prayers have been answered. Looks like I will get that lead role after all, now that Jolfer will be laid up for awhile!”



Jill Lane

NOT TO SCALE



**Summary of Statement by Yig City Police of Chris Jolfer**  
**Taken on December 5, 2010**

I was going from my house to Rose Hill for rehearsal of the school musical on November 29, 2010. The weather was cold and rainy. It was raining hard and about 35 degrees outside. I had plenty of time to get back to school. I left my house about 3:15 p.m. and it is about a 7 minute drive to school. Rehearsal was supposed to start at 4:00 p.m. so I had plenty of time.

From my house you take Jill Lane, my street, directly to Highway 50. You take a left onto highway 50, going west, and take that into town, turning left on Highway 47 with the school just up the road on the right hand side.

I used my headlights. I was driving my 2010 Chevy Camaro. It is red. I was alone in my car.

After turning onto Highway 50 I don't remember a lot. I suffered a concussion, broken ribs, and a broken arm in the accident. I am still in the hospital. I am taking pain medication - darvocet, so I am a little hazy.

I do have a feeling about something crossing or coming into my lane. Beyond that I have no memory. I can't remember anything else. I am in a lot of pain.

