

SETTLEMENT BROCHURE

Submitted on behalf of the Patterson and Williams Plaintiffs

**For the Purposes of Settlement Discussion and
Compromise Negotiations Only**



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SUMMARY

On November 23, 2009, Plaintiffs Kelly Williams, Tiffany Williams, Tera Patterson, Tacy Patterson, T.J. Patterson, and the late Terry Patterson, Sr. were awakened by a horrific explosion in the Patterson home. This explosion blew the home apart, heaving the occupants into the air before they crashed back down in the fiery debris.

The cause of this explosion was a rogue and trespassing 325 gallon LP gas tank that was placed, owned, serviced and the responsibility of the Defendants, through their propane operations under the name “Highland Propane.” That LP gas tank was placed on the property for propane service to a prior owner in 1998, and continued to sit on the property unserviced for a period of 8 years (from its last fill date in 2001 through the date of the explosion). It remained on the property until the fateful day when this explosion occurred despite multiple requests by multiple property owners that the tank be removed, as well as the company’s own self-generated service order for removal.

The Defendants chose to put profits over safety, following their business practice of leaving unused propane tanks to trespass on the property of others to serve as billboards, in hopes of obtaining future business. Unfortunately, the Plaintiffs had to pay the costs for that business decision through the severe and permanent injuries to their bodies, including brain, burn, orthopedic and other injuries.



A. THE EXPLOSION – NOVEMBER 23, 2009

On the morning of November 23, 2009, Terry Patterson Sr., his wife Tacy, their son Terry Jr., (T. J.) and daughter Tera, as well as their friends Kelly and Tiffany Williams (who are sisters), were asleep inside the Patterson residence at 1518 Crosier Road in Rainelle, West Virginia.

April Vestal, a neighbor who lived three to four homes from the Patterson’s, recalled a very loud boom, describing it as the “loudest noise she had ever heard in her home.” It shook her windows and woke her daughter. April and her daughter ran downstairs and saw dark smoke high in the air, along with ash and debris falling through the sky. April and her daughter went to the home that had exploded to see what they could do to help. When they arrived, April saw a girl that “reminded her of something out of horror movie, like a zombie; her arm was dangling” walking over a knoll towards

them. The girl, who was wearing pajamas, appeared to be in shock and was covered in white ash. It was obvious she had extensive injuries, particularly to her arm. April then heard someone screaming and ran towards the knoll where she saw another girl, this one was on her hands and knees climbing out of the debris. April ran to her and tried to help, but this girl couldn't move very far as she was obviously in a lot of pain, so April made her sit down on the knoll. April and her daughter eventually drove both girls to her house to wait for an ambulance.

Dolan Dunbar, another neighbor, remembers sitting in his recliner and watching the news around 7:00 a. m., when he heard an explosion that shook the ground. He got up and looked outside and saw flames and smoke about 100 feet in the air. He then drove toward Crosier Road in his truck, parked and walked up the road towards the residence. The first thing he saw was a girl in the field beside the house, about 30 or 40 yards away from the structure. Dolan then began to walk towards the house which was burning very strongly, with shooting flames and debris flying through the air. As he walked toward the house, Dolan saw a second girl; about 20 years old, sitting between the house and an adjacent structure. He picked her up under her arms and dragged her around the building. He could see extensive burns on her arms; she was moaning in pain and didn't respond to him verbally. When he had successfully dragged her to the other side of the building, he found a man, a woman and a teenage boy already there. The boy, T. J., kept saying his back was hurting and that he was cold, so Dolan took his jacket off and gave it to him.

Tacy Patterson and **Terry Patterson, Sr.**, had both gone to bed in their bedroom around 11:00 p.m. the night before the explosion. The next thing Tacy remembers is lying on her left side and seeing a big, colorful fireball coming towards her. She and Terry were blown through the back of the house into the yard outside. **Tera Patterson** remembers watching TV in the living room on the hospital bed around 11:15 p.m., and then T. J. cleaning the kitchen around 11:45 p.m. She did not smell anything unusual before she went to sleep; everything seemed normal. Tera doesn't remember anything about the explosion; her first memory after the explosion being when she woke up in the hospital in Charlottesville.

Kelly Williams was temporarily living with the Patterson's in November 2009. She remembers she and Tera were sleeping on a hospital bed in the living room, and that they went to bed sometime after midnight. Just prior to the explosion she remembers waking up and smelling something she didn't recognize. She didn't wake Tera, but went into the room where T.J. and Tiffany were sleeping to see if the smell was coming from there. She did not recognize the odor, but said it "stunk." She opened the door and stared at Tiffany, who had just woken up and was sitting up in bed. Standing in the doorway she could still smell the odor that she had just detected in the living room; it had the same smell, same character and the same intensity. She and Tiffany simply looked at each other, then Kelly says she "sniffed again because I could tell that something was wrong". She shut the door and turned to go tell Terry and Tacy that they needed to get out because something was wrong, but only made it a few steps before the "boom." When she gained her senses she remembers being blown out of the house. Kelly couldn't tell what remained of the house at that point because she wasn't facing it. She just knew there were no walls beside her. She remembers "heavy stuff" on her back and that she was trying to use her elbows to dig herself out of it.

Tiffany Williams said she awoke to a "rotten smell." The next thing she remembers was her sister Kelly coming in and opening the door. Kelly was looking at her and then abruptly closed the door. She was awake only a short time before the house blew up. She hollered Kelly's name twice;

the second time she yelled “Kelly” there was a loud boom. Tiffany remembers the explosion and then “going up in the air;” she then crawled out from underneath the roof. She tried to stand, but fell back down; she thought she had broken her hips and indeed, her pelvis was shattered. She immediately ripped her clothes off, because she was on fire. T.J. and another man came and pulled her away from the burning structure. She sat there in agony waiting for the ambulance to get there.

T. J. Patterson does not remember smelling or hearing anything unusual before he went to bed. The first indication he had that something was wrong was when he heard a loud boom and then his dad screaming. The boom was a very loud sound, and he had never heard anything like it before. After the sound he looked up and all of a sudden could see outside; the “wall was gone.” The next thing he knew, he was on the floor of his room covered in debris from the roof that had collapsed on him. It took him a couple minutes to pull the debris off him and he crawled out. He looked back at the house from the garage and saw the “whole house ablaze.” When he found his parents, his mom wasn’t coherent and she appeared to be in pain. The next thing he remembers is Tiffany coming up over the roof which had just collapsed; he saw her roll off it toward his parents. She was wearing a shirt and shorts, and she was on fire. She was screaming “somebody help me!” as she rolled down the roof. Her face looked like a big, giant blister. Her abdominal area, the tops of her feet, her butt, and her legs were also burned; she appeared to be “just hanging skin . . . her skin was coming off.” Terry Sr. helped T. J. carry her around the garage. Since her shirt and shorts were on fire, T. J. removed them. T. J. and Terry then carried Tacy to where they had left Tiffany, and all of them waited for help to arrive.

Fire Chief George Brooks, II had been with the Rainelle Volunteer Fire Department for nearly 40 years in November 2009. Chief Brooks got the call at 7:17 a.m. and was part of first group that responded. He remembers initially being “slow to respond” as they have guidelines not to pull out without four firefighters on a truck, but stated “sometimes you have to do what you have to do.” He was scared they were going to find dead bodies, as the radio communications “sent chills up his back.” When he arrived, he found “devastation so great” he didn’t even pick up his radio initially. He testified the debris field was very large, there was a lot of smoke, and a lot of heavy flames. He denoted the front area of the house was partially intact; but anything left inside the house was “engulfed in smoke and fire . . .”

Upon arrival, Chief Brooks immediately saw a “large propane tank” on the left side of the residence. At 7:43 a.m., Brooks told dispatch to get in touch with Highland Propane, and its branch manager, Jud Gilkeson, subsequently arrived at the scene. As Brooks and Mr. Gilkeson approached the tank, Brooks asked him to make sure the tank was safe and if anything needed to be done. Chief Brooks testified he saw Mr. Gilkeson turn the knob to close the valve.

Assistant State Fire Marshal (ASFM) B. J. Robinson was the West Virginia State Fire Marshal tasked with investigating this explosion. ASFM Robinson was a trained fire investigator with 18 years of experience, and had previously investigated approximately 1,000 fires. Because of the large extent of the debris field, Robinson requested the West Virginia State Police Aeronautical Unit be contacted to get a chopper in the air to take aerial photographs. Further, because of the extent of the devastation, he requested another fire investigator to assist. Robinson described “heavy debris” with insulation blown “plumb to the neighbor’s three houses down.”



ASFM Robinson's Report of Investigation outlines his investigation and the conclusions and opinions reached as a result of said investigation. These opinions were based on his investigation on the scene, conversations with the home's occupants, neighbors, witnesses, emergency responders, neighbors, and Highland Propane personnel. In order to eliminate all other potential causes, ASFM Robinson went so far as to speak with coal mine engineers/employees and review coal mine maps. As a result of ASFM Robinson's thorough investigation, including calling in drug task force personnel, the speculation surrounding the possibility of a meth lab explosion was eliminated. Instead, he determined the cause of this explosion to be propane, with the propane originating from the Highland Propane tank found on the property.

Interestingly, within 24 hours of the explosion, ASFM Robinson talked to Mr. Gilkeson. At that time, Mr. Gilkeson requested he be allowed to put a plug into the valve on the tank, to which ASFM Robinson agreed. Had Mr. Gilkeson or any Highland Propane employee taken this relatively simple action at any point in time in the prior 8 years following the last time propane service was provided at the property, this horrific explosion would never have even been a possibility.

Richard "Smokey" Dyer is a fire cause and origin expert who investigated this explosion as a retained expert of the Plaintiffs. He concluded that the origin of the explosion was in the basement of the structure, and that the source of ignition was most probably in the basement, due to an electrical source of energy. He further concluded that the fuel first ignited was propane gas, which most probably flowed from the Highland Propane tank into the structure through a compromised or open gas line. The propane gas in the basement was ignited and resulted in over pressurization in this area of the structure propelling the basement wall to the rear yard, pushing the floor of the main level up from the basement, and shoving the west, north and east walls of the first floor to the yard.

Tim Dunn is a chemical engineer and flammable materials expert who investigated this explosion as a retained expert of the Plaintiffs. He concluded that the explosion in the Patterson home was the result of the ignition of propane from the Highland Propane 325 gallon tank left in place and unused, though still connected to the home's piping. He concluded that the propane discharge can be explained by an event likely occurring overnight: one, the gas service at the tank being left on with a

piping outlet becoming compromised; two, an already-existing open piping outlet with someone having turned on gas service at the tank that night, or three, both scenarios one and two. Based upon the condition of the piping recovered inside the home and the witness testimony, he determined none of the three scenarios could be eliminated.

B. HIGHLAND PROPANE’S INSTALLATION/SERVICE OF PROPANE TANK

The owner of the propane tank, and also the entity responsible for placing, filling and servicing it was the entity doing business under the name of Highland Propane. The period of time relevant to this action is the period of 1998-2009. For the period of 1998 through July 2004, defendant Diversified Energy (a wholly-owned subsidiary of defendant RGC Resources) was the entity doing business under the name of Highland Propane. After that time, following an Asset Purchase Agreement, defendant Inergy Propane, LLC (a wholly-owned subsidiary of defendant Inergy L.P.) owned and operated the company doing business under the Highland Propane name.

The subject propane tank was placed at the residence in October of 1998 by Highland Propane in connection with a propane services contract with the owner of the property at that time, Lilly Vestal. Ms. Vestal subsequently moved from the residence and Otis Cornell moved in. Highland Propane continued to service the subject propane tank in connection with a separate propane services contract executed in December of 2000 with Mr. Cornell. The last time propane was delivered to the subject tank was in March of 2001.

2041721055	53421E	642259	PDLV	Propane - Delivery	Y	Y	I	OTIS	2001/03/09 10:11:47	CAVENDI
04016	2001/03/13	1-27 PM	2001/03/13	1.35 PM					2001/03/09	

The Patterson family then moved into the home in 2004. The Patterson family never established propane service with Highland Propane or any other propane company at the residence. The Vestal’s and Otis Cornell were the only customers of Highland Propane at this residence, and the last account at this residence was discontinued on October 28, 2004, more than 5 years prior to the explosion. Yet, Highland Propane left its tank at the residence.

Acct #	Note	Addr 1	Addr 2	City/ST	Zip	Phone #	SSN	Area	Prod	Acct	Cons	Act	Inst	Bill	Acct	Lead	Credit	ASP	Balance	Eq	Acct	Inst	Acct	Inst	Inst	Inst
Inst	Inst	Inst	Inst	Inst	Inst	Inst	Inst	Inst	Inst	Inst	Inst	Inst	Inst	Inst	Inst	Inst	Inst	Inst	Inst	Inst	Inst	Inst	Inst	Inst	Inst	
04016	04016	1306/11/07		2004/03/28	NY	199-1801	2004/12/06	Y	U	FR	1998/10/07	2001/01/07	2001/01/05	1000												
04016	04016	1998/03/08		2003/08/16	NY	199-0308	2003/08/16	N	D	FR	1998/03/08	2003/08/16	2003/08/16	2000												
04016	04016	1998/10/07		2004/10/28	NY	199-1801	2004/10/28	N	NP	FR	2003/12/08	2004/10/28	2004/10/28	2000												

C. REQUESTS TO REMOVE THE PROPANE TANK

Lilly Vestal originally requested that the subject propane tank be removed in 2000, when she decided to move from the residence and sell it to Otis Cornell on a land contract. She made 2 separate

phone calls to Highland Propane, and was told each time that it would remove the tank. However, that never occurred, and when Mr. Cornell moved into the residence, the subject propane tank remained on the property.

When Mr. Cornell first lived in the residence, the house was equipped with a propane heater and cook stove. He used these appliances fueled by propane provided by Highland Propane until the last summer he lived in the property. At that time, they switched to an electric stove, and because it was summer and they did not intend to heat the house anymore using the propane heater, he contacted Highland Propane to request that the propane tank be removed. Highland Propane told him that it would remove the tank, but that request also went unfulfilled.

Beyond Mr. Cornell's request to remove the tank, Highland Propane knew that Mr. Cornell was no longer at the residence. Specifically, starting in the summer of 2001, Highland Propane repeatedly attempted to contact Mr. Cornell by both phone and mail regarding past due amounts on his account. The "Contact History for Premise" (RGC Resources 133-135) shows multiple attempts at contact starting in August of 2001. From that point through May of 2004, Highland Propane repeatedly received returned mail that was directed to Mr. Cornell, ultimately leading an employee to enter into the system on May 17, 2004 that Mr. Cornell was "no longer there." (RGC Resources 134).

3264862	1	RMAIL	no longer there	2004/05/17 15:57:08	JONEST
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Lilly Vestal again took possession of the property in 2004, and sold it to Charles Meadows in May of 2004. However, prior to the sale, Ms. Vestal made her third request to have the subject propane tank removed by Highland Propane. She was again told that it would remove the tank, but again, this requests went unfulfilled.

The Patterson family subsequently purchased the property from Mr. Meadows pursuant to a Deed of Trust in June of 2004. In October of 2004 the Patterson family called Highland Propane to ask about getting the tank filled. On or about October 11, 2004, Highland Propane mailed out a name change contract. (RGC Resources 133)

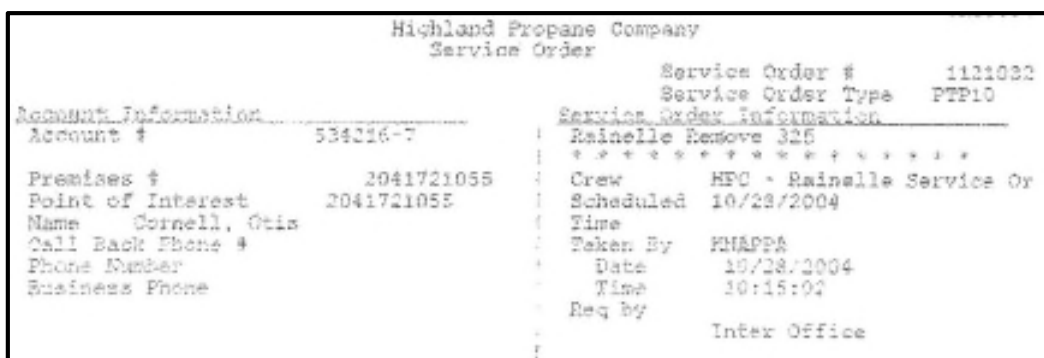
3412236	1	POAIR	mailing out name change contract 10/12/04 to new owner-Larry Patt	2004/10/11 15:34:52	CAVENDI
	2	POAIR	error	2004/10/11 15:34:52	CAVENDI

However, the Patterson family decided against using propane, and sent the contract back to Highland Propane unsigned. With these acts alone, Highland Propane new that there was a new owner of the residence, and that those residents did not want propane service through Highland Propane. Yet again, no action was taken to remove the subject propane tank.

About six or eight months (approximately the summer of 2005) Tacy told Terry she was going to call Highland to see if they would come pick up the tank since they weren't using it. She felt it was rusty and "ugly," and she wanted it removed from the property. When she called, a woman told her "I will have to get back with you and let you know when we can pick it up." The next conversation Tacy had with Highland Propane was approximately three weeks later, and she was told that right

now it would be “cost ineffective” for them to come and get the propane tank. She asked when she could expect them to come and get it, and the Highland Propane employee told her that he would have to get back to her on that in a couple of weeks. After a couple of months, Tacy again called Highland Propane and requested that the tank be removed, and was told that the company would see what it could do. However, the Patterson family never hear back from Highland Propane on any of these requests, and the subject propane tank continued to remain on their property.

Overall, Highland Propane ignored a minimum of 7 requests between 2000 and 2005 by the owners of the residence to remove the subject propane tank. Highland Propane also ignored its own knowledge that (1) the tank was last filled in 2001, (2) the propane services account at that residence had been closed in 2004, and (3) the current owners of the residence did not want any propane service. Worse, Highland Propane even ignored its own directive, in the form of a self-generated Service Order issued on October 28, 2004, to remove the propane tank. (INP0014).



D. BUSINESS PRACTICE OF LEAVING TANKS ON PROPERTIES

Clearly, had Highland Propane acted in response to (1) any of the requests for removal, (2) its knowledge about lack of use of propane at the residence, or (3) its own self-directive to remove the tank, the explosion which occurred on November 23, 2009 could not have happened. This inevitable conclusion leads to the question: Why would Highland Propane continue to keep this tank in the field as a trespass to the Patterson property? Testimony from the employees of Highland Propane and the corporate representatives of the defendants makes clear it was for their own business purpose, and as aptly described by Highland Propane’s branch manager, “greed.”



**Jud Gilkeson
(Branch Manager of Highland Propane/Corporate Representative of Inergy Defendants)**

Judson (Jud) Gilkeson began working for what became known as Highland Propane in 1985, and continues to work for that entity today (albeit under ownership of Suburban Propane). He has held several different positions at the company; he started out delivering cylinders, moved to install helper, and was promoted to Branch Manager in the late '90's. When Suburban Propane took over in 2013, he was demoted to truck driver.

Mr. Gilkeson made clear that the Patterson family was not alone in having an unused Highland Propane tank left in trespass on their property. Indeed, this is not a case of a forgotten or overlooked tank. Instead, it is the prime example of what happens when a company puts its business interests over the wishes and safety of property owners. Mr. Gilkeson testified that it was actually the business practice of Highland Propane to leave propane tanks on properties no longer being serviced to provide a foothold and billboard for future business.

13 Q Moving on to talk about the practice of
14 Highland Propane in deciding whether to leave a propane
15 tank that is no longer being serviced on the property,
16 what was that practice?
17 A The practice of leaving a tank there?
18 Q Yes.
19 A It was left there in hopes of gaining
20 another customer if somebody bought the place. They could
21 notify us and we could continue selling gas in that tank.
22 Q And for lack of a better description, it
23 kind of provided you a billboard on that property as to
1 your company's propane business?
2 A It could have if it had a sticker on it.

(Gilkeson as Inergy Corp. Rep., 30:13-31:2)

Because of this business strategy, Highland Propane had no business practice to identify propane tanks in the field that were no longer in service, so that they could be retrieved and eliminate the risks they posed to the occupants of the properties where they sat.

15 Q I think we have covered this through
16 some other questions, but I will ask, I take it that
17 Highland Propane didn't have a practice to identify tanks
18 that are out in the field that were no longer in use? Is
19 that true?
20 A No, we didn't have a practice of that.
21 Q And the reason being because even if you
22 weren't essentially generating income through them by
23 servicing them, they still served a business purpose in

1 that they could lead to future business; is that fair?
2 A Yes, and we had plenty of tanks. We
3 didn't need any tanks, you know.

(Gilkeson as Inergy Corp. Rep., 39:15-40:3).

Because of these business practices, it is undisputed that Highland Propane undertook no steps to identify the subject propane tank and determine whether it was in use.

21 Q And it is fair to state that prior to
22 this explosion, Highland Propane undertook no steps to
23 identify the propane tank at the subject residence to
1 determine whether it was in service, out of service,
2 needed to be removed?
3 A You are saying did we check on that
4 tank?
5 Q Correct.
6 A No, we did not.

(Gilkeson as Inergy Corp. Rep., 40:21-41:6).

Beyond its choice to leave an unused propane tank in the field for its business purpose, Highland Propane chose to do this in the most reckless manner possible. Specifically, it took no steps to secure the tank to prevent the propane in that tank from flowing into a building and creating a risk of an explosion. It did so despite being well-versed in ways to secure tanks, doing so for a variety of other reasons.

2 In terms of the circumstance where a
3 propane tank is not being serviced and it is left out
4 there for future business, did Highland Propane Company go
5 out and cap or plug or lock out those tanks?

6 A No, we did not.

7 Q And it is my understanding that you and
8 your employees would plug or cap a tank in certain
9 situations, correct?

10 A That is correct.

11 Q And what were those situations in which
12 Highland Propane would cap or plug a tank?

13 A Unsafe appliances that couldn't be
14 rendered, you know, safe, out of gas costs, which there
15 was nobody there to relight, sign the paperwork. That
16 would be an instance. At times, we would plug them for
17 not paying it but not always.

(Gilkeson as Inergy Corp. Rep., 35:2-17).

Highland Propane was well acquainted with the need for taking such action, and the risks of its failure to do so.

2 Q Regardless of why you are capping or
3 locking off a tank, is the purpose of the plug or the
4 other things you described to keep propane from leaving
5 that tank and going through the gas system?

6 A Yes, other than a company
7 representative, you know.

18 Q And the reason that it would be locked
19 off would be to prevent the homeowner from coming in and
20 trying to relight the system him or herself?

21 A That would be fair, yes.

22 Q And the reason being that propane, if
23 not handled safely and correctly, can be potentially
1 dangerous?

2 A It will burn.

3 Q And that can result in a house fire and
4 explosion?

5 A Sure.

(Gilkeson as Inergy Corp. Rep., 37:2-7; 37:18-38:5).

Moreover, despite knowing that it was leaving these tanks in the field and creating hazards to property owners, Highland Propane imposed no real requirements on itself to pick up tanks where customers/landowners requested they be removed or Highland Propane directed itself to take action.

15 Q Sir, can you tell us what the practice
16 of Highland Propane was in responding to a request by a
17 customer or landowner to remove a propane tank from their
18 property?

19 A The practice would be we would get it in
20 as timely a manner as possible.

21 Q In terms of the practice of Highland
22 Propane in responding to that request, was there any set
23 defined period of time in which Highland Propane would say
1 we have to get that tank?

2 A No, there was not.

11 Q Would it be safe to say that it was the
12 practice of Highland Propane to remove a tank that had
13 been requested to be removed within, let's say a year's
14 period of time?

15 A No, not a practice, no, it was not.

16 Q As the head honcho in charge of that
17 branch, I know you said you wanted to get picked up as
18 soon as possible, but would you want that tank picked up,
19 let's say in six months, twelve months, a year, two years?
20 Did you have any time frame you would want that to be done
21 in?

22 A No.

8 Q Would you have expected that that tank
9 would have been picked up at least within five years of
10 the request to remove it?

11 MR. HANSEN: And, again, we are talking in the
12 event of a customer call, number one?

13 MR. BROSE: Yes.

14 THE WITNESS: Would I -- would you expect? I
15 would think it should be, yes.

16 BY MR. BROSE:

17 Q Moving on to a similar question, what
18 was the practice of Highland Propane in terms of
19 fulfilling their own service orders to remove a propane
20 tank from a property?

21 A In a timely fashion.

22 Q And again, was there any specific outer
23 end in terms of saying we would want to get it picked up

1 by, within so many months or years?
2 A No, there was not.
3 Q Would you, in terms of being the manager
4 of that branch, expect it to be picked up within one year
5 of the entry of the service order?
6 A No, I wouldn't expect that.
7 Q Would you expect it to be picked up
8 within two years?
9 A I never thought of it. I didn't really
10 expect. We would get it when we could.
11 Q Would you expect it to be picked up
12 within five years of --
13 A I wouldn't expect it, but I would think
14 we could, yes, if possible.

(Gilkeson as Inergy Corp. Rep., 25:15-26:-22; 27:8-28:14).

All of Highland Propane's business practices run afoul of its recognized duty of safety, not only to its customers, but also the general public.

10 Q Sure. I was just asking to see if you
11 agree that Highland Propane had an obligation to its
12 customers, employees and the general public to conduct its
13 operations in the safest possible manner at all times.
14 MR. HANSEN: Object to the form of the
15 question.
16 THE WITNESS: Yes, we have a responsibility to
17 our customers to be as safe as possible, you know.
18 BY MR. BROSE:
19 Q And would you agree that you had that
20 same responsibility to the general public?
21 A Sure.

(Gilkeson as Inergy Corp. Rep., 49:10-21).

Yet, it is clear that Highland Propane had no regard for the safety of the general public, especially those who chose not be its customers, despite knowing propane can harm people just like dynamite.

13 Q Was it the -- did Highland Propane have
14 a policy to provide consumer safety information to all of
15 its customers on an annual basis?

16 A To its customers, yes.

17 Q Did it provide that same safety
18 information to all locations where its tanks may be
19 located?

20 A No, because there wasn't a customer.

7 Q And is that all because if not used in a
8 safe or correct manner, that propane can cause property
9 damage, injury or death?

10 A Yes, just like dynamite can.

(Gilkeson as Inergy Corp. Rep., 52:13-20; 52:7-10; Gilkeson as Branch Manager,).

All of these dangerous business practices can be traced to Highland Propane's failure to have in place any written policies or procedures.

21 Q Okay, and I will try to shortcut most of
22 these. I take it, over that period of time, mid 2004 to
23 2009, there weren't really any written policies or
1 procedures in place. Is that fair?

2 A That is fair.

(Gilkeson as Inergy Corp. Rep., 22:21-23:2). This is true even with respect to the very issue of retrieving their own property and preventing a trespass.

12 Q Is there any set policy that Highland
13 Propane had from, let's say, '98 to 2009, as to what
14 amount of time they were going to let their tanks sit
15 there before they'd finally say, "It's best just to go
16 pick it up?"
17 A No.

(Gilkeson as Branch Manager, 72:12-17). This conscious disregard for the public continues today, as despite this explosion and now knowing the simple steps to prevent it, Highland Propane has made no changes to its policies, procedures or business practices.

12 Q Following the explosion that occurred
13 November of 2009 at the Patterson residence, did Highland
14 Propane enact any type of written policies or procedures
15 regarding the removal of tanks or removing tanks that were
16 no longer in service?
17 A No.
18 Q Did it change its practices in terms of
19 responding to request to remove tanks, filling service
20 orders to remove tanks or identifying tanks no longer
21 being serviced?
22 A No.

(Gilkeson as Inergy Corp. Rep., 56:12-22).

Yet, because of “greed,” as stated by its own branch manager and corporate representative, it is clear that profits won out over safety in the decision to leave a tank as a billboard or remove it to protect landowners.

6 Q So in 2004, did Highland -- Highland
7 Propane see a substantial reduction in the amount of
8 its customers?
9 A From '04 to the present, yes.
10 Q And do you have any understanding of why
11 that occurred in that period of time?
12 A Yes.
13 Q And why is that?
14 A Greed.

(Gilkeson as Branch Manager, 91:6-14). Simply put, Highland Propane was losing customers so fast it was desperate to undertake any action, regardless of how dangerous, to try to protect its market share. Even if it wanted to do the right thing, its employees weren't able to keep up with the need to remove tanks.

5 **Q** And so you're now maybe at the height of
6 the problem, or the issue, however you want to phrase
7 it. You're picking up 375 more tanks a year, so is
8 that just work that's just being added to your
9 schedule and Joey's schedule and Chris's schedule?
10 **A** Sure.
11 **Q** And over that period of time, did you
12 guys find yourselves having a hard time keeping up
13 with just the number of additional tanks you were
14 having to pick up?
15 **A** Was we having a hard time keeping up?
16 **Q** Uh-huh.
17 **A** Yes. We got what we -- and then may I
18 **Q** Did you ever have a problem where you
19 simply didn't have room to get another tank in?
20 **A** We was getting there. We was getting
21 there. We had them stacked two high.

(Gilkeson as Branch Manager, 94:5-17; 97:11-14).

Although the Patterson home exploded under the watch of Highland Propane while being owned and operated by the Inergy Defendants, it is clear that the failings which would so severely injure the Plaintiffs started well before Inergy's acquisition of the company.



**(Jim Shockley Corporate Representative of
RGC Resources, Inc., and Diversified Energy Company)**

James (Jim) Shockley is currently the Vice-President of Roanoke Gas Company and has worked for them for 30 years. Previously, he was the Vice-President of Operations for Bluefield Gas Company and Highland Propane. He has also worked in several positions within these company's over the years; he was a pipeline mechanic, an engineering specialist, Director of Operations, Director of Human Resources, and General Manager. For the times relevant, and up to July of 2004, Diversified Energy (a wholly-owned subsidiary of RGC Resource, Inc.) was conducting business as Highland Propane.

Mr. Shockley's testimony regarding the business practices of Highland Propane mirrors that of Jud Gilkeson. Diversified/RGC similarly failed to employ any written policies or procedures in

the operation of Highland Propane.

1 Q. Did Highland Propane ever have a written policy or
2 procedure to respond to a request by a landowner to remove
3 propane tank from their property?
4 A. Written policy or procedure? No.
5 Q. Did Diversified Energy -- strike that.
6 Did Highland Propane ever have any written policies
7 or procedures on how to fulfill a service order that it
8 generated to remove a propane tank from the property?
9 A. No written policies.
10 Q. Did Highland Propane ever have any written policy or
11 procedure to guide its employees in deciding whether to leave
12 a propane tank that is no longer being serviced on a
13 property?
14 MR. PASSEGGIO: I am going to object; inconsistent
15 with our written objections.
16 A. No written policy or procedures.
17 BY MR. BROSE:
18 Q. Did Highland Propane ever have any written policies
19 or procedures about whether to cap or lock out a propane tank
20 that was no longer being serviced by Highland Propane?
21 MR. PASSEGGIO: Objection on that.
22 Do you want to do a standing objection on that?
23 MR. BROSE: That's fine, and we can do that for all
24 objections raised.
25 A. No.

(Jim Shockley as Diversified Corp. Rep., 21:1-25).

Despite the known risks of propane, Highland Propane took no steps to identify tanks in the field no longer in service.

21 Q. Was there anything Highland Propane was doing to try
22 to identify propane tanks that weren't being used because
23 there was a change in landownership?
24 A. No, sir.

(Jim Shockley as Diversified Corp. Rep., 45:21-24). However, Mr. Shockley would expect that a tank would be picked up within in at least a year of a request to remove the tank.

24 Q. So using that, if a request is made by a customer or
25 landowner to remove a propane tank from that property, is it
1 fair to say that as a common practice and expectation of
2 Highland Propane, that tank would be removed at least within,
3 let's say, a year of the request?
4 A. That would be a common expectation.

(Jim Shockley as Diversified Corp. Rep., 32:25-33:4). Yet, when it came to fulfilling its own service orders to remove a propane tank, no time limit was imposed.

19 Q. And in those circumstances, did you -- if the
20 service order was to remove the tank because they account has
21 been closed, would you expect those to be fulfilled during a
22 delivery season if they are generated in that delivery
23 season?
24 A. No. There was no time frame on those pending
25 orders. Strictly use fill-in work.

1 Q. Was there any type of time constraint under which
2 Highland operated to remove tanks in that circumstance?

3 A. No time constraints, no, sir.

4 Q. Would you, as VP of operations, want that tank
5 removed at least within a year of the time that the request
6 was generated?

7 MR. PASSEGGIO: Object. You can answer.

8 A. As VP of operations, our focus was on safe delivery
9 of our product, and we were also focused on our growth and
10 the addition of new customers.

(Jim Shockley as Diversified Corp. Rep., 34:19-35:10).

Unsurprisingly, given these “business practices,” when asked about Highland Propane’s business practices under Diversified Energy/RGC, Mr. Shockley made clear that profits came before safety.

22 With the severe competition that we had in those
23 markets, we were not concerned with removing tanks due to
24 inactivity because we wanted to be the next service to the
25 next person.

(Jim Shockley as Diversified Corp. Rep., 35: 22-25). Beyond simply leaving what amounts to a stick of dynamite on the property to serve as its billboard, Highland Propane would take no steps to advise

new occupants about the risks of propane.

17 Q. For those instances in which a propane tank is left
18 at a property when there is a transfer of ownership to get
19 its foothold for future business, did Highland Propane have
20 any type of common or customary practice to advise the new
21 residents about safety precautions that need to be taken with
22 respect to propane?
23 A. Not that I am aware of. The correspondence on
24 safety would have been in a packet upon them requesting
25 service.

(Jim Shockley as Diversified Corp. Rep., 36:17-25). Further, despite having the knowledge, resources and tools to do so, Highland Propane would take no steps to plug the tank and prevent the escape of any remaining propane gas from becoming a hazard to property owners.

10 Q. If there was a service order for tank removal
11 generated because of a closed account, was there a common
12 practice of Highland Propane to plug that tank until such
13 time as they could work it into their schedule to remove
14 it?
15 A. Not that I am aware of, no.

(Jim Shockley as Diversified Corp. Rep., 42:10-15).

This tragic event could have been prevented had there been even one reasonable policy/procedure for either (a) the removal of abandoned/trespassing propane tanks or (b) plugging those tanks to prevent its contents from becoming a hazard. Sadly, these businesses put profits over safety resulting in a senseless explosion and injury to Plaintiffs.

E. PLAINTIFFS' EXPERTS' OPINIONS

Smokey Dyer opined that by introducing a utility to the property (propane service), the Defendants increased the risk of fire, yet they did not take steps to eliminate these risks by securing the utility. Tim Dunn opined that this explosion would not have occurred if Highland Propane had removed the tank from the property or closed/locked off the tank while keeping it in place. He also opined that, based upon the physical and chemical properties of propane, it was certainly foreseeable that persons can be unaware that flammable concentrations of propane have collected inside a house, especially with a basement leak. The shortcoming of the “warning system” (odorization) is a compelling reason for propane retailers, like Defendants, to fulfill their responsibilities to ensure safe gas systems, regardless of whether or not the occupant becomes a propane customer.

Gary Maul opined that only the owner of a propane container (here, Highland Propane) knows how the container has been used, and has a vested interest in its proper use and maintenance and is therefore accountable. Likewise, a seller or distributor of liquid or bottled fuel gas must use a degree of care to prevent the escape of such gas from its pipes and containers. He also opined that the subject tank should have been removed pursuant to request, non-usage, knowledge of change in property ownership, and the company's own service order. At a minimum the tank should have been secured to prevent fugitive propane from creating a risk to property occupants.

F. SUMMARY OF PLAINTIFFS' INJURIES

Kelly Williams, Tiffany Williams, T. J. Patterson, Tera Patterson, Tacy Patterson and Terry Patterson, Sr., all survived the explosion, but were severely injured and suffered extreme pain and suffering as a result of the explosion and subsequent fire. Most experienced severe burns and polytrauma from the blast injury.

KELLY WILLIAMS

Below are a sampling of photographs that depict the burn injuries to Kelly Williams.



However, Kelly suffered far more injuries than these burns when she was literally thrown from the Patterson home when it exploded. Her injuries include:

- Multiple burn injuries to her face, both upper extremities, buttocks, both lower extremities
- Circumferential full-thickness burn to lower trunk
- Pelvic trauma, with a comminuted right iliac wing fracture
- Left comminuted sacral alar fracture

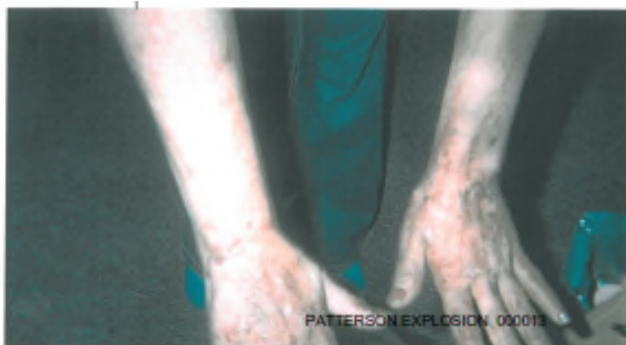
- Left posterior iliac wing crescent fracture, with mild posterior sacroiliac diastasis
- Displaced right superior pubic rami fracture
- Intra-articular fracture to clavicle, involving the sternoclavicular joint w/subluxation
- Left and right rib fractures
- Endplate compression fractures at C7, T2, T4, T5, T6, T7, T8, and T9.
- Burst fracture at T3
- Liver and spleen lacerations
- Multiple surgeries and skin grafts
- Permanent physical disfigurement
- Psychiatric issues

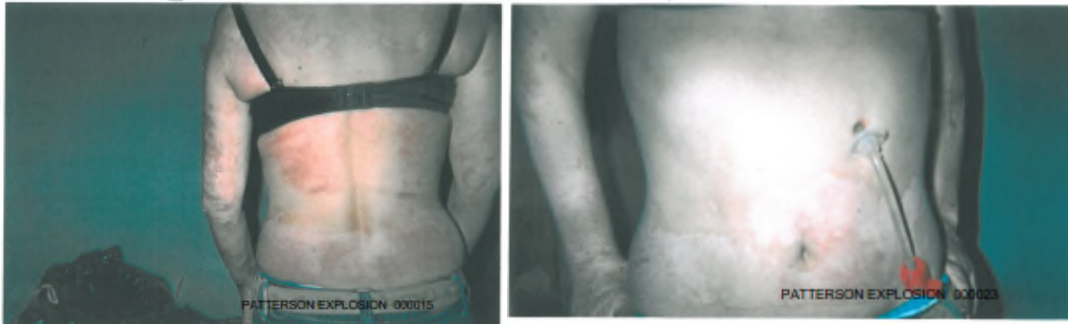
Since the explosion, pain and difficulties from her injuries have been daily struggles for Kelly. She endures constant pain, which she describes as centered on the left side of her body, from head to toe. The pain is stabbing and burning in nature, and with her around the clock, making her extremely limited physically and emotionally. Reaching, lifting and carrying, especially on the left side, is very painful for her. She cannot tolerate standing for more than five minutes, twisting and bending activities are difficult, and pain accompanies all activities and limits how much she can do. She has daily headaches for which she must take prescribed medication, since they are so bad. She deals with bladder and bowel problems, and has difficulty swallowing, with foods often "getting stuck" now.

Kelly is humiliated by her burned body, which is a great source of embarrassment to her. Kelly has had continued problems with decision making and planning, decreased ability to follow directions; impaired memory; and slowed thought processing. She has also developed a stutter. Kelly is quite lonely. She struggles emotionally, and has lost a great deal of patience and finds herself easily frustrated and quick to anger. Kelly describes "panic attacks" that have presented since the injury, depression, sadness, and fears about an uncertain future.

TIFFANY WILLIAMS

Below are a sampling of photographs that depict the burn injuries to Tiffany Williams.





Similar to her sister, Tiffany suffered far more injuries than these burns from the explosion. Her injuries include:

- Second- and third-degree burn injuries to approximately 35% of her body surface
- Burns to her head and face
- Burns to both arms and hands circumferentially
- Circumferential burns from the right wrist to the right forearm
- Full-thickness burn injuries circumferentially around her entire trunk at the umbilicus
- Burns to both feet
- Multiple pelvic fractures involving a comminuted, displaced fracture of the right superior and inferior pubic rami, with associated right iliac wing fracture;
- Comminuted displaced fracture of the right ilium, extending into the right SI joint
- Displaced fracture of the left superior pubic ramus
- Pulmonary contusion with atelectasis versus aspiration
- Lung collapse and pneumonia
- Right iliopsoas hematoma
- Liver contusion
- Multiple surgeries and skin grafts
- Permanent physical disfigurement
- Psychiatric issues, including anxiety and panic attacks

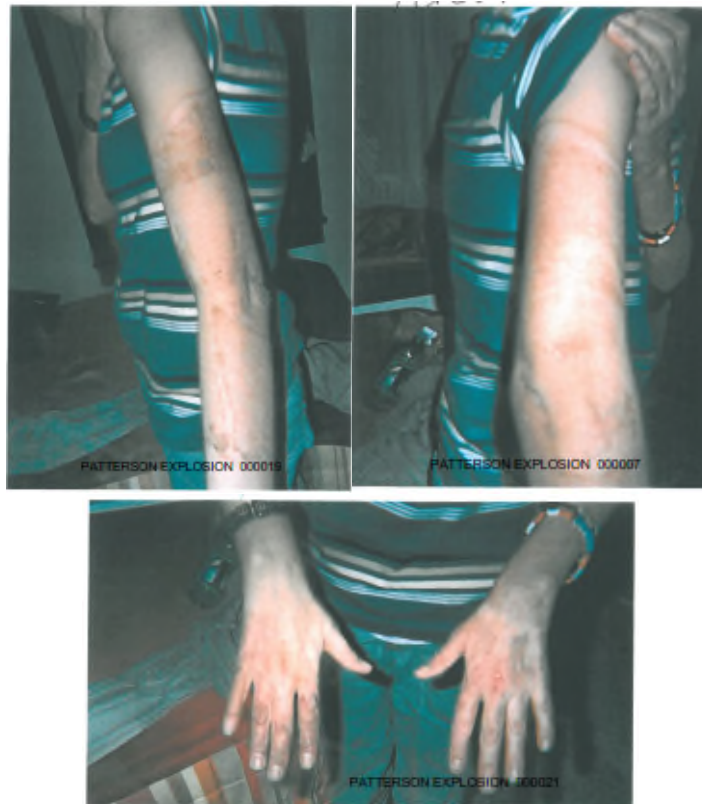
Prior to the explosion, Tiffany was a fairly private person, but had made great strides in overcoming a social phobia. However, since the explosion, she now has extreme difficulty with social gatherings other than family, as she experiences “prominent” pain every single day which is the single most limiting factor. She has pain in her back and sides that is constant, and she feels very weak when performing even the simplest tasks. Sitting for even a short period increases the pain in her back, and her sides become numb with a “burning sensation.” She must move and change positions often in an attempt to manage her mounting pain levels. Activity of any kind, twisting, bending, kneeling, stooping, climbing stairs, etc., all result in numbness accompanied by burning pain.

She has problems with balance and has episodes of dizziness, heart-racing and shortness of breath; these episodes continue for 2-3 days at a time during which she experiences “black outs.” Tiffany endures daily, constant headaches with numbness at the back of her head, and has problems sleeping through the night. She often wakes after experiencing nightmares about the explosion. She

is fearful and anxious, intolerant of loud noises, and now reacts to sounds differently; noises to her are exacerbated and startle her. She now has self-esteem issues, due to embarrassment of her wounds, scars and burns. She stays away from people, noting she is “embarrassed” about the appearance of her skin post burn. Tiffany nearly always stays at home; she’s lost her friends and doesn’t engage in any social activities besides seeing her family.

TERA PATTERSON

Below are a sampling of photographs that depict the burn injuries to Tera Patterson.



Tera also suffered far more injuries than these burns from the explosion. Her injuries include:

- 15% total body-surface-area burns
- First-degree burns to her face, forehead and left cheek
- Second-degree and third-degree burn injuries to bilateral upper extremities, with burns extending from the fingertips to the middle of both arms
- Burns to her waist and to both feet
- Airway burn
- Subdural hematoma, tracking along the tentorium and left side of the cerebellum
- Subdural effusion, adjacent to the left frontoparietal lobe
- Extensive splenic laceration, with moderate hemoperitoneum
- A transverse left mid-humerus fracture, with overriding and anterior displacement
- Comminuted left sacral ala fracture, including the S1 vertebral body and

- Acute endplate vertebral body compression fractures from T1 through T6
- Partial lung collapse and pleural effusions
- Multiple surgeries and skin grafts
- Permanent physical disfigurement
- Psychiatric issues

Tera's lifestyle has been altered as a result of her injuries, with ongoing physical, cognitive, and emotional difficulties interfering with daily living, recreational pursuits and relationships. Tera endures chronic pain daily, with pain in her back, both arms, and both legs. Carrying and lifting is difficult and restricted to only lightweight items. She is unable to sit or stand for extended periods of time; she can tolerate at best a half an hour of sitting or standing before she must move due to pain. Any twisting or bending activities are painful and avoided. She notes problems with balance, with a sense of unsteadiness; at times, she gets dizzy while walking. At all times, and particularly when performing activities, shortness of breath is a problem.

Headaches occur daily and have been present since the injury. She has trouble sleeping and is constantly fatigued and has no energy or motivation. Her short-term memory is significantly altered; forgetting tasks she used to have no trouble remembering, saying "what used to be easy is now really hard." Making decisions is more difficult as her attention and concentration are altered as well. Tera loses focus, cannot recall details, cannot concentrate, her mind tends to wander, and her thought processing is slower. She is terrified of loud noises, and becomes extremely anxious when they occur. Since the injury, depression and anxiety have become problems she struggles with every day.

TACY PATTERSON

Although Tacy Patterson was able to escape this explosion without major burn injuries, she still suffered severe injuries to her body. Tacy's injuries include:

- Subdural hematoma
- Intracranial and subarachnoid hemorrhage
- Scalp lacerations
- Pneumothorax, pneumonia and respiratory failure
- Heart attack
- Life Support for thirty-eight days

Tacy was not working at the time of the explosion, as she had been previously diagnosed with Charcot-Marie-Tooth disease; which has worsened as a result of the November 23, 2009 explosion. Her hearing is now impaired, and she has chronic daily headaches. Before the explosion (and even though she was suffering from Charcot-Marie-Tooth disease), she could tackle many activities with help, but her situation has worsened significantly as she is unable to walk at all and has to use a motorized wheelchair for mobility.

Since the explosion, Tacy experiences chronic pain, especially in her legs. Motor and sensory function in Tacy's hands, wrists, feet and lower legs have been severely affected. Her hands remain clawed, and she has trouble with grasping and manipulation skills. She has muscle atrophy in the lower legs and in both feet. She is dependent on others for going anywhere out of her home and for

all self-care activities within the home. She often has trouble breathing and swallowing, often choking on both liquids and solids. Tacy feels like she's lost some of her intelligence since she was injured, as she has trouble finding the right word, difficulty paying attention to anything for very long, and her thought processes are slower. She rarely leaves the house, is sad, depressed and often worries about fires and explosions.

T. J. PATTERSON

T.J. Patterson was also able to escape this explosion without major burn injuries, but he too still suffered severe injuries to his body. T.J.'s injuries include:

- Burst fracture of C7 vertebral body, extending to the posterior cortex, with mild retropulsion of the posterior fragment
- Widening of the facet joints at C6-C7, caused by acute traumatic blood/fluid pool
- Superior endplate compression fracture of C5 vertebral body
- Superior endplate compression fractures at T1, T2, T3, T4, T5, T6, and T11,
- Lung collapse
- Minerva brace for spinal fractures

T. J. has pain in his back and neck, centered between his shoulders, and has rounding of his upper back which does not allow him to stand up straight. He describes generalized weakness of his upper extremities, which, coupled with his back pain, interferes with carrying and lifting. He can't sit or stand for an extended period of time and his balance is impaired. T.J. experiences recurring headaches since the explosion, and has difficulty sleeping, often waking with nightmares of the explosion. He experiences ringing and popping sensations in both ears, which is "constant".

T. J. says he's depressed, angry, sad, and lonely. He is often irritable and on edge and has found himself in physical altercations at times without knowing how or why the situation occurred. He seems to take more risks and does things on impulse now, without thinking. T. J. continues to experience sudden outbursts of crying. He was so shocked by the explosion that he remains stressed all of the time, fearful, and uncertain of what the future holds for him.

G. SUMMARY OF PLAINTIFFS' DAMAGES

PAST MEDICAL

KELLY WILLIAMS	\$421,935.34
TIFFANY WILLIAMS	\$339,708.55
TERA PATTERSON	\$312,518.35
TACY PATTERSON	\$278,836.69
T.J. PATTERSON	\$82,674.34
TOTAL	\$1,435,673.27

FUTURE MEDICAL (PRESENT VALUE)

KELLY WILLIAMS	\$1,944,450
TIFFANY WILLIAMS	\$2,018,255
TERA PATTERSON	\$2,016,324
TACY PATTERSON	\$5,299,074
T.J. PATTERSON	\$999,210
TOTAL	\$12,277,313.00

In addition to the physical/emotional injuries and their associated damages, the Patterson family lost their home and all of their worldly possessions. Kelly and Tiffany also lost many of their possessions from the fire that consumed the Patterson home.

PLAINTIFFS' DEMAND

\$9,000,000.00