

IN THE SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA

JOHN HARDEN, as Administrator of the :
Estate of Tammy Cowart, Deceased, and :
LEE COWART, Individually and as the Next: :
Friend of Tammy Cowart's minor children, : Civil Action No.
JCH, JLH, JFH, and MKH : :
 : 11-A-07297-1
 :
Plaintiffs, :
 :
v. :
GEORGIA MARKETING AND LEASING, LLC, :
CAIN VINCENT HARRIS, JAIME ROBLEDO, :
 :
 :
Defendants. :

JURY TRIAL

Volume IV of V

HONORABLE FRED BISHOP, presiding

Commencing on December 10, 2010 - December 17, 2010

GWINNETT JUSTICE & ADMINISTRATION CENTER
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Lawrenceville, Georgia 30045

On Behalf of the Plaintiff: John Mabrey, P.C.,
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Attorney at Law

On Behalf of the Defendant: Weymon Forrester,
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1 commence with that. We've got probably two and a half hours
2 or so, maybe a little more in the case and then this case is
3 going to be yours to decide. We'll be taking a break every
4 45 minutes to an hour here along the way.

5 I believe you have opening and closing, Mr. Mabrey and
6 Mr. Dixon.

7 **MR. MABREY:** Yes, Your Honor. We're going to split
8 opening.

9 **THE COURT:** All right.

10 **MR. MABREY:** Mr. Dixon.

11 **THE COURT:** Yes, sir.

12 **CLOSING ARGUMENT BY MR. DIXON**

13 **MR. DIXON:** May it, please the Court. Good morning,
14 ladies and gentlemen. When I started working on this case a
15 couple years ago it occurred to me that it was a case simply
16 about responsibility. Should the Defendants have gotten
17 this home and deck inspected. Was that their responsibility
18 or even more simply, should they have asked the question has
19 this deck been inspected because had they asked that one
20 question, it would have led to an inspection.

21 What I've heard here, is a case about responsibility,
22 but also a situation where they hope you all do not apply
23 your own sensibility. And by that, I want to talk about
24 what I would consider the underbelly of this trial, as what
25 we feared coming that there would be insinuation and

1 innuendo in an effort to cast dispersions on Ms. Tammy
2 Cowart and deflect liability. And this I think was best
3 illustrated when my client, John Harden, was on the stand
4 and I asked him about meeting Tammy and about the type of
5 person she was. And he said she was a giving person, a good
6 person, and I said was this the case from the time you
7 married her on up through the time of her death and he said
8 yes, yes.

9 And I sat down and Defense counsel stood up and the
10 first question out of his mouth was, you remember Mr. Dixon
11 asking you whether Tammy was good and he said, yes. And
12 then he asked, well isn't it true y'all are divorced in
13 January 2004. Yes. And isn't it true you met Lee Cowart in
14 November 2003. He said, yes. And I sat back and I said why
15 in the world did he ask that. There's no follow-up to that.
16 There was nothing trying to tie that together. What did he
17 mean? Ladies and gentlemen I got back up and established
18 quite clearly that there was nothing funny going on, that
19 John and Tammy had decided to get divorced long before John
20 ever met Lee, but the insinuation. What is the insinuation
21 there?

22 When the trial started -- before the trial started,
23 during jury selection, you all sat out there and I stood
24 here and I went through a list of names including a bunch of
25 doctors and potential witnesses and one of them was Dr.

1 Katragadda, Suneel Katragadda. Y'all remember that. Y'all
2 were sitting right out there and no one said they remembered
3 or knew of him. And Defense counsel got up and said, Mr.
4 Dixon went through names of a bunch of doctors and I want to
5 know do any of y'all know Psychiatrist Suneel Katragadda.
6 He didn't point out any other doctors. I had already asked
7 you that. He didn't ask about any of the others. He asked
8 about psychiatrists, Suneel Katragadda. Why is that? What
9 seed was he trying to plant in your minds at that point?

10 Ladies and gentlemen, we heard testimony about Tammy
11 going to various doctors or the hospital various times.
12 Testimonies about pills. What's the insinuation there? My
13 fear, ladies and gentlemen, and maybe Mr. Forrester will
14 correct this, make sure this isn't what you all do when you
15 go back to deliberate, my fear is that the hope was that you
16 all would conclude that Tammy was a crazy, promiscuous, fat,
17 pill-popper and that somehow because of that her life did
18 not have more value. And ladies and gentlemen I will tell
19 you if that's what we saw here, then that's just wrong and I
20 would hope you all do not consider that.

21 Because, ladies and gentlemen, Mr. Harris sat on the
22 witness stand yesterday and this is all -- I'm thinking this
23 is all insinuation and innuendo. Mr. Harris sat on the
24 witness stand yesterday and confirmed that that was their
25 theory. He said Tammy Cowart is to blame for her own death

1 and he said, she took a bunch of pills, she went to the
2 doctor a bunch of times, she was fat. You heard him say
3 that. You heard him -- he confirmed my worst fear.

4 Ladies and gentlemen, do not consider that. The fact
5 is Tammy Cowart had a beautiful life and you don't have to
6 take my word for it. Take the word of the six men who took
7 that witness stand and talked about her. And ladies and
8 gentlemen, even if she was a fat, overweight, crazy
9 pill-popper, she had a beautiful life.

10 John Harden took the stand and told you. He married
11 her young and he had four kids with her. If Tammy's life
12 was anything other than beautiful, would that man sitting
13 right there have had four kids with her? And then the kids
14 got on the stand, one-by-one, and really Jonathan was the
15 one that struck me the most. He's the young man with the
16 autism. And Jonathan sat on the witness stand and he told
17 you about the song that his mother used to sing to him and
18 he told you the lyrics of the song, the lyrics he could
19 remember.

20 Ladies and gentlemen, his mother was beautiful to him.
21 He told you about that. Ladies and gentlemen, I've heard of
22 couples having songs. This is the first time I've heard of
23 a mother and a son having a song. And then Lee Cowart got
24 on the stand and he talked to you about his wife. Now, Lee
25 voluntarily married a woman who had four children already

1 and took them into his home. You don't do that if that
2 woman is not a beautiful woman. And Lee sat on the stand
3 and he told you to the moon and back, through the stars,
4 through to infinity and the unknown beyond, I loved you,
5 baby. I love you, baby.

6 That woman inspired those words. Ladies and gentlemen,
7 this is the case about a beautiful life. I thought about
8 this this morning because there are just a bunch of things
9 going on in the world and we all have our circumstances. In
10 October my grandmother died. In November her son, my
11 father, died, and this morning, my grandfather, my father's
12 father and my grandmother's husband, is having heart bypass
13 surgery. What does that do to me? Well, it makes me
14 understand and appreciate how precious life is.

15 And when the Judge talks to you later on, he's going to
16 give you jury instructions, the charge, and one of the
17 things he's going to tell you is if you determine that there
18 was negligence here and you're going to award dollars in
19 this case you should do that based upon your enlightened
20 conscience. Remember that phrase, enlightened conscience.
21 That says to me we all know how precious life is. We all
22 know the value of life and you take that experience and you
23 apply it, your collective experience, to determine how
24 valuable life is to this family.

25 Ladies and gentlemen, in going through the case, you

1 heard a lot of evidence and I want to recap some of that
2 evidence for you and I want to start by telling you some
3 words that I think are very important. In any suit in
4 common law where the amount of controversy shall exceed
5 \$20.00, which is what we have here, the right to trial by
6 jury shall be preserved and no fact determined by a jury
7 shall be otherwise re-examined in any court of the United
8 States.

9 Ladies and gentlemen, those words are from the Seventh
10 Amendment to our Constitution, the Bill of Rights. And what
11 that says is folks like you for 250 years have sat and made
12 determinations in cases like this and so that says to you,
13 you all have the right to determine this. You all have the
14 expertise to determine this and we ask you, we put this case
15 in your hands trusting you, trusting that you listened to the
16 evidence and that you will come to a fair and just
17 conclusion.

18 The facts in the case, ladies and gentlemen, I think
19 lead us to this ultimate conclusion. It's quite simple.
20 The deck collapsed, Tammy got hurt, which led her to the ER
21 where she got medicines that ultimately caused her death.
22 That's it. You're going to hear a bunch of things from
23 Defense counsel that seek to undermine the validity of this
24 statement, but, ladies and gentlemen, keep in mind the facts
25 in the case, the facts in the case about what happened and

1 what caused her death. They all came from our witnesses and
2 they're unrefuting, unrefuted.

3 Defense counsel will tell you things and draw
4 conclusions about things, but they're won't be any facts
5 from the witness stand to back that up. Remember the lawyer
6 does not give you the evidence. You get the evidence from
7 the witness stand and from the documents that you'll have
8 with you in deliberations.

9 The deck collapsed, undisputed. We all know that
10 happened and that it was a violation of code when it
11 happened; right? So there's not really much to talk about
12 there. Tammy was hurt during this collapse. Very important
13 fact because she was hurt, she had to go to the ER. So was
14 she really hurt? Well, her husband said he went out and he
15 saw her lying on the ground. She was hurt. She went to the
16 ER -- actually, first the ambulance, EMS, came out. They
17 assessed her. They strapped her to a board and transported
18 her to the hospital. These professionals believed she was
19 hurt. And she got to the ER and the doctors there did all
20 kinds of tests on her because she was in pain.

21 And, ladies and gentlemen, Ms. Harris, the
22 Investigator, testified, and she told you that when she
23 examined Ms. Cowart's body, she found bruises on her back,
24 her legs and her arms that she concluded were due to the
25 deck collapse. Tammy was hurt as a result of this deck

1 collapse. Does Tammy have the right to go to the ER when
2 she's hurt? Of course she does. Of course she does.

3 You heard a bunch of testimony about previous ER visits
4 and they're monthly. And, ladies and gentlemen, I submit to
5 you that's neither here nor there. This ER visit, this very
6 first ER visit and the second one were due to the deck
7 collapse, not to anything else in Tammy's past, to the deck
8 collapse. Keep that in mind. She goes and she sees Dr.
9 Freeman. Dr. Freeman orders tests and prescribes the
10 medication Darvocet, gives her some Ibuprofen. A mild pain
11 medication as you've heard from everyone, very mild. Sends
12 Tammy home after the CT scan.

13 They get the results of the scan. Well, actually there
14 at the psychiatrist's office that got the call and Mr.
15 Forrester makes a big deal about no complaints of pain at
16 the psychiatrist. Ladies and gentlemen, it's a
17 psychiatrist. Doctors, medical doctors treat pain. Why
18 would she complain of pain there?

19 She gets a call from the ER saying come back, we see
20 something and we need to investigate it just a little
21 further. So Tammy returns to the ER faithfully and talks to
22 the doctor there, Dr. G., Dr. Gadegbeku. And Dr. Gadegbeku
23 orders an MRI and the CT and this MRI show bulging disc.

24 Now, this is one of those sort of misdirections that I
25 want to bring out to you and explain to you. The MRI and

1 the CT scan in this case show bone spurs on the spine. And
2 Defense counsel wants you to believe that this bulge or this
3 problem in the neck was preexisting and undoubtedly the bone
4 spur was preexisting. It was -- those don't develop
5 overnight.

6 Ladies and gentlemen, we don't know whether the bulge
7 was pre-existing, but regardless, regardless, and the Judge
8 will instruct you on this, the law is that even if Tammy had
9 preexisting injuries, if this deck collapsed aggravated
10 those preexisting injuries, then she's entitled to recover.
11 You can't hide behind someone's preexisting problems as a
12 defense to your own negligence. Really all of us have
13 something wrong with us. That's why the law says you can't
14 hide behind preexisting problems.

15 So Tammy's in the ER. She explains to the doctors her
16 situation and says, I've been taking this Darvocet all day
17 and it's not helping, can you prescribe something stronger?
18 And the doctors prescribe the Oxycodone plus acetaminophen,
19 Percocet. And you heard from Dr. Gadegbeku. He said had I
20 believed Tammy was seeking pills, had I believed that I
21 wouldn't have given her the Oxycodone. You heard from the
22 professional whose responsibility by law is to determine
23 whether people are going to the ER simply to get pain
24 medication. He's seen thousands of patients.

25 Mr. Forrester will tell you that's what she was doing

1 or he'll imply or insinuate it, what have you, but the
2 professional told us I evaluated this. I didn't think that
3 was the case. And, ladies and gentlemen, I want to bring
4 something to your attention that actually just occurred to
5 me last night, if the implication is that Tammy was a pain
6 pill-seeker. Think about this. She went home that night
7 with the Oxycodone and right before one in the morning as
8 the testimony has been, she took a single Oxycodone pill. I
9 submit to you that someone who is trying to party
10 recreationally with narcotic drugs is not going to take a
11 single pill right before bed.

12 In fact, you go to sleep, you miss the high, don't you?
13 That's not what she was doing. Tammy got home. The
14 medication she had in the ER had worn off. She was still in
15 pain. She wanted to go to sleep. How hard is it to sleep
16 when you're in pain? She took a single pain pill, a single
17 pain pill. She was not using these drugs recreationally.

18 Defense counsel will tell you that maybe Tammy is
19 responsible for her own death because she took the Darvocet
20 and the Percocet at the same time and he'll bring up a board
21 that will show you that will be Dr. Gadegbeku's record and
22 in Dr. Gadegbeku's record it's not written that I told her
23 not to take these at the same time. That's not written in
24 the record. Dr. Gadegbeku said, you know what, based upon
25 my custom and practice, I know that I told her that. But

1 it's not written the record.

2 And so the implication will be that he didn't tell her
3 that and therefore she took both of them at the same time
4 and she's responsible for her own death. And, ladies and
5 gentlemen, I want you to pay close attention to that because
6 there is no testimony, none, no evidence that she took the
7 Darvocet and the Percocet at the same time. There's none.

8 As a matter of fact, Dr. Gowitt, the Medical Examiner,
9 testified and he told you about the levels of these drugs in
10 her system and nothing about those levels was out of whack.
11 They were all in the therapeutic or below therapeutic range
12 even for the Darvocet.

13 And, ladies and gentlemen, one of the things you'll
14 also hear is that we have the burden of proving to you why
15 Tammy Cowart died. That's our responsibility to prove that
16 to you. That's why we brought Dr. Gowitt. Dr. Gowitt did
17 this medical exam, this autopsy, in the regular course of
18 his work before any lawyers were involved. He did this
19 autopsy and he concluded that she died as a result of taking
20 these pills she received at the ER.

21 Mr. Forrester if he has an alternate theory of death,
22 which he's blaming Tammy Cowart in part, so he also must
23 prove that to you. He has to prove his theory to you and
24 the Judge will instruct you by competent evidence. He has
25 no evidence that she took the pills at the same time. Even

1 more, he has no evidence that taking the pills at the same
2 time would have done anything more to her than was actually
3 already done. He has to bring the evidence on that point
4 too and he hasn't. The only witnesses he put on, Angie
5 Miller, the Investigator, his two clients and Dr. Freeman by
6 deposition. None of them, none of them talked on that
7 issue. The only one who did was Dr. Gowitt.

8 Ladies and gentlemen, the last point on the medications
9 that killed her I want to make with you involves Ms. Miller,
10 Investigator Miller. No qualms with her. She went in, she
11 got the medications, she did a pill count. The only thing I
12 want to raise to you because I suspect that the argument
13 will be well, she had these Darvocet pills, 20 were
14 prescribed, there were 13 in the bottle when Investigator
15 Miller counted them. Therefore, Tammy Cowart took more
16 Darvocet than she was supposed to. Again, back to his
17 recreational pill-popping theory thing.

18 First, Dr. Gowitt told us these pill counts he, as the
19 official Medical Examiner, doesn't rely on. Why? Well, if
20 we look at this pill count in particular, Ms. Miller listed
21 Oxycodone rather than Oxycodone and acetaminophen, which is
22 what Tammy received. Ms. Miller listed Propoxyphene, which
23 is Darvon, and not Propoxyphene and Acetaminophen, which is
24 what Tammy received. These are minor errors, ladies and
25 gentlemen, and Ms. Miller didn't mean anything by them, but

1 they're errors. And so you have to question the accuracy of
2 the entire pill count.

3 And let's say Ms. Miller got the count right and there
4 were seven Darvocet missing; there is no evidence that Tammy
5 took seven Darvocet. Her toxicology report, which by the
6 way came from the Georgia Bureau of Investigation, it's not
7 something that, you know, just some schmo off the street
8 did, this is the GBI, it came back with nothing abnormal
9 about the Darvocet level. And so I think they want to tell
10 you Tammy took them all. Truthfully I don't know whether
11 she did, but the possibilities are that she did over the
12 course of 24 hours, nothing unusual. It's a mild pain
13 medication.

14 I personally stood over my own sink with medications
15 and accidentally dropped a couple down the drain, maybe she
16 did that. Maybe the pharmacy didn't put all the pills in
17 the bottle. Maybe Ms. Miller just got the count wrong.
18 Ladies and gentlemen, don't draw conclusions just based on
19 wild speculation. What we have is the toxicology
20 report. The toxicology report tells us everything we need
21 to know about the medicines in Tammy's system.

22 The deck collapsed, it caused injuries to Tammy, which
23 led her to go to the emergency room where she received
24 medications that killed her. It's the factual scenario in
25 the case. Ladies and gentlemen, if you conclude that this

1 scenario is proper, the next thing you're going to have to
2 do is apply the law to the case. The Judge will give you
3 the law and will tell you, you consider these factors with
4 the facts you determine to be true and conclude whether the
5 Defendants were negligent.

6 Ladies and gentlemen, one of the things the Judge will
7 tell you is we have the burden of proof, which is what I
8 discussed just a little bit earlier. And by the burden of
9 proof that means we have to bring sufficient evidence to you
10 to persuade you that these facts are true more likely than
11 not. They're more likely than not true. They're probably
12 true. The distinction is this isn't a criminal case where
13 we would have to prove this beyond a reasonable doubt.
14 That's not the situation. You can have reasonable doubt,
15 but if your mind says, you know, this is probably what
16 happened, this is probably what happened, then we've
17 satisfied our burden of proof and in doing that, we brought
18 to you the evidence in as streamlined a fashion as we could.

19 Remember earlier we were talking about maybe being here
20 until next week. We streamlined it and to be fair Mr.
21 Forrester did as well to get this case to you with the
22 evidence that is necessary for you to make the
23 proper decision. And keep in mind that as you deliberate
24 and you're making conclusions and you're coming to a
25 decision, this is Lee Cowart's and those four boys only

1 opportunity. There is no other jury that they can go to to
2 seek justice. It's your responsibility. It's your
3 responsibility. And you've been so attentive, so very
4 attentive that I have every confidence that you'll live up
5 to it.

6 The Judge will tell you about the law and I want to
7 bring up a few things. Our allegations about how they were
8 wrong and the very first thing I want to draw to your
9 attention and there's no need to take notes because the
10 Judge is actually going to give you the jury instructions.
11 So you'll have these when you deliberate. On page five of
12 these instructions, thereabout. I think I'm a little off
13 because of the typeset. The Judge will tell you it is
14 ordinarily the duty of a landlord, landlord to turn over
15 rented property to the tenant in a condition reasonably safe
16 and suited for the tenants' intended use and free of hidden
17 defects as the exercise of ordinary care on the landlord
18 might have disclosed. A landlord is liable for injuries
19 resulting to a tenant from defects that were hidden from the
20 tenant and of which the landlord knew. They didn't know of
21 these defects, or could have discovered, by the exercise of
22 ordinary care. That's it, ladies and gentlemen.

23 Do you remember during opening statements Mr. Forrester
24 stood up and told you that this case is about what a normal
25 person would do? That's his phrase, normal person. What

1 would a normal person do? You all sat here during jury
2 selection, all 40 of you were out there, I asked a question,
3 who here has purchased a home without getting a building
4 inspection? No one raised their hand. Normal people.
5 Normal people get building inspections. What would a normal
6 person do?

7 Ladies and gentlemen, a normal person -- step back a
8 second. These weren't individuals out just buying homes for
9 themselves or renting homes that they have lived in to
10 someone else. These were corporate landlords. This was
11 their business. They testified that they had 40 to 50
12 homes, bunches of employees. Mr. Robledo said they were
13 doing very well. Corporate landlords. Would corporate
14 landlords assume that their property was safe? Better yet,
15 should -- this is for you to decide. Should corporate
16 landlords simply assume their property that they're renting
17 out to mothers and fathers and little kids is safe? Because
18 Mr. Harris and Mr. Robledo got on the stand and they said
19 that's all they did was assume. They assumed it had been
20 inspected. They assumed there was a Certificate of
21 Occupancy. They assumed the deck was free of defect. They
22 assumed the home was safe. They assumed the home was suited
23 for the tenants' intended use. Assume, assume, assume.

24 And I know you all saw this or hints of it just a
25 second ago, but I learned as a youngster what happens when

1 you assume. And that's precisely what happened in this
2 case. Ladies and gentlemen, tellingly Mr. Harris was on the
3 witness stand and John was questioning him, asking him about
4 whether the reasonable, normal person would get home
5 inspections. And he said, he said, well if it were a home I
6 was going to live in, and then he said well, let me change
7 that. Y'all remember that? If I were going to live there,
8 whoops, let me change that. I shouldn't say that. I
9 shouldn't say that. He wasn't going to live in this little
10 home. Tammy Cowart and her four boys were.

11 Should you assume this place is safe when your office
12 is next door to the builder and your buddies with him or
13 should you go next door and say hey, did you get a building
14 inspection? Hey, let me see the Certificate of Occupancy.
15 Hey, we're sitting down at dinner having beers, what about
16 these inspections? What about the deck? Who put it up
17 there? Did they get it inspected? Should you just assume
18 that or should you ask the question? Mr. Harris conceded
19 that it would have been, and this really is all you need, it
20 would have been more prudent to ask the question than to
21 assume the answer. You all are folks of common sense. I
22 don't know that anybody needed to tell you that.

23 Ladies and gentlemen, it doesn't stop there. The Judge
24 will also instruct you instruction that's on page seven
25 regarding the code violations. The Judge will tell you that

1 the law in this case is that the Plaintiffs contend that the
2 Defendants violated certain laws or ordinances such as
3 Chapter 5 of the International Residential Code Section
4 502.21, 2000 International Residential Code Table 301.1. In
5 Chapter 3 of the Wood Products, Materials, Construction and
6 Finishing Manual.

7 The Judge will tell you that such violation -- they
8 violated this. Such violation is called negligence per se,
9 which means negligence as a matter of law. And really your
10 decision here because the testimony is unrefuted that the
11 property was in violation of the code. Mr. Robinson told
12 you that and Mr. Davidson told you that. The Defendants
13 aren't denying it. It was in violation of the code. Really
14 your only decision here is it's your duty as the Judge will
15 instruct you to decide whether such violation took place.
16 If you conclude that the violation took place, they are
17 negligent as a matter of law. It doesn't even matter that
18 they didn't get a building inspection. Here's why. I
19 always like knowing the reason behind things.

20 Mr. Davidson told us this too. The law is in place for
21 the protection of tenants, of people occupying structures.
22 And Mr. Davidson told us that if a landlord is in possession
23 of a property that violates the code, it's the landlord's
24 responsibility and he said we don't give the violation to
25 the builder. No, no, no, no, no. It's the landlord's

1 responsibility. Why? Because they own the property. It's
2 theirs. It's like buying a used car as is. You can get
3 inspections. You cannot get inspections. It's up to the
4 landlord, but by God, if you don't get it, the law says
5 we're not going to let you claim ignorance of the code as an
6 excuse. We're not going to let you say I didn't know what
7 the law was Mr. Corporate Landlord. We're going to say you
8 are negligent as a matter of law period. There is no
9 evidence in the case to refute their negligence as a matter
10 of law if you all believe Mr. Davidson and Mr. Robinson were
11 telling you the truth that the code was violated.

12 Ladies and gentlemen, we also brought you evidence
13 about Georgia Marketing and Leasing and their failure to
14 have in place systems, policies, procedures, to ensure they
15 were leasing, renting out safe property. This corporation
16 had no systems in place. They bought all these other
17 properties they said from Buckalew, seven of them, and I
18 think they want to stand up and say see, the rest were safe
19 so we had no reason to believe this other one wasn't safe.
20 No, no, no. They should have had all of them inspected when
21 they bought them. They just got lucky on the other six.
22 They got lucky.

23 Ladies and gentlemen, this has been the evidence in the
24 case. And the Judge will instruct you that if these
25 Defendants set off by failure to get this deck inspected a

1 chain of events that led to Tammy Cowart's death, then
2 you're authorized to issue a verdict in favor of the estate
3 of Tammy Cowart and in favor of Lee Cowart for her wrongful
4 death.

5 Now, we will hear I'm quite confident what I will call
6 the plan B defenses. What's plan B? Someone who wanted to
7 go to law school, I was a big fan of the show The Practice.
8 I don't know if y'all remember that. It was around '95,
9 '96, back in that time. And there were criminal defense
10 lawyers and they were defending all kinds of people and
11 sometimes their clients were absolutely guilty. And when
12 those instances would occur, they would implement what they
13 called plan B, which was to blame a completely innocent
14 person in court in an effort to get their clients off.
15 They're going to blame this person who's not here to defend
16 themselves. They can't defend themselves, they're not here.
17 He's going to blame them and hope that you will buy it.

18 In this case, their plan B has included Mr. Buckalew
19 Holiday Sales. You're going to get the verdict form in this
20 case. None of these people is on that form. Don't allow
21 this plan B to work. They've blamed Dr. Gadegbeku.
22 Testimony, questions from Defense counsel about whether
23 Gadegbeku violated the standard of care. You're going to
24 hear something else about it in terms of Gadegbeku not
25 telling Ms. Cowart not to take the Darvocet and the Percocet

1 at the same time even though there's no evidence that that's
2 actually what she did. They blame the pharmacy. They blame
3 the nurses at the hospital. I think they blamed Lee Cowart.
4 I think Mr. Harris blamed him although I'm not exactly sure.
5 And we know they blame Tammy and Tammy's name will be on the
6 verdict form.

7 And Mr. Mabrey will talk with you a little more about
8 her, but we don't want you to attribute any fault to her.
9 Of course we don't. We don't believe she shared in any
10 fault in her own death. The plan B Defendants. The only
11 question for you is, are you going to buy it? Defendants
12 cast a wide net. That's what you do when you're fishing.

13 Responsibility. Mr. Harris blames Tammy Cowart for her
14 own death. Responsibility. Mr. Robledo gets on the stand
15 and I'm asking him about who built the deck and he says
16 anybody could have, it could have been Superman. We're
17 here, we've been here all week. Ladies and gentlemen,
18 you've been paying close attention to everything. You've
19 been studying this case seriously. A lady died and left
20 behind four young kids. And Mr. Robledo gets on the stand
21 and talks silliness about Superman. Ask yourselves, do you
22 believe that he in this setting after saying that actually
23 took his responsibilities as a landlord seriously?

24 Responsibility. I asked Mr. Robledo, I said: Sir, you
25 assumed all these things, inspection, Certificate of

1 Occupancy, safety. You assumed all that to be true;
2 correct? He said: Yes, I assumed all that. I said: You
3 were wrong in your assumptions, weren't you? He said: Yes,
4 I was wrong. I said: Do you accept responsibility for your
5 own wrong assumptions? He said, quickly without wavering,
6 without doubt: No. No. Maybe that man is responsible.

7 Ladies and gentlemen, these are the questions you have
8 to answer. These are the issues. This is the case. Tammy
9 Cowart's beautiful life. Tammy Cowart's beautiful life.
10 Tammy Cowart's beautiful life. Mr. Forrester is going to
11 speak with you and then John will speak with you after that.
12 I suspect I'll hear a bunch of bad things about what I said
13 to you. Mr. Dixon is wrong and that's fine. That's fine
14 because I make no apologies about fighting for life. Thank
15 you.

16 **THE COURT:** We'll take five minutes here before we
17 commence with the next argument.

18 (Whereupon, the jury was escorted from the courtroom
19 for a brief recess.)

20 **THE COURT:** We'll take five minutes.

21 (Whereupon, a recess was had by the Court. After
22 which, the following proceedings were held in open court
23 with all parties present.)

24 **THE COURT:** Plaintiff ready?

25 **MR. MABREY:** Yes, sir.