

No. 114571

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IN THE COURT OF APPEALS FOR THE STATE OF KANSAS

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JONNI CULLISON, et al.,  
Plaintiffs-Appellants,

v.

CITY OF SALINA, KANSAS  
Defendant-Appellee,

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APPELLANTS' REPLY BRIEF  
JONNI CULLISON, et al.

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APPEAL FROM THE DISTRICT COURT OF SALINE COUNTY, KANSAS  
TWENTY-EIGHTH JUDICIAL DISTRICT  
THE HONORABLE WILLIAM B. ELLIOTT, JUDGE  
DISTRICT COURT CASE NO. 14CV55

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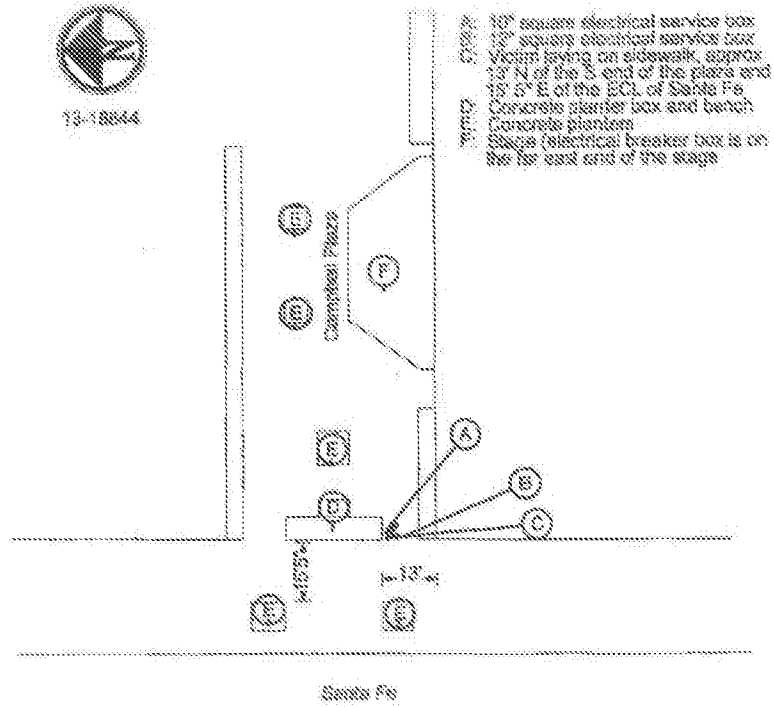
### CLARIFICATION OF APPELLEE'S ACCIDENT DRAWING

Kansas' Supreme Court Rule 6.05 allows Appellants to submit a reply brief if it is "...made necessary by new material contained in the appellee's or cross-appellee's brief." To that end, Appellee included a diagram in their brief that does not accurately depict the accident scene. This diagram is found on page 3 of Appellee's Brief and referenced in the record on appeal as "R. Vol. 2, p. 752." Despite Appellants' knowledge regarding the existence of this diagram, clarification regarding its inaccuracies only now became ripe with its inclusion in Appellee's brief.

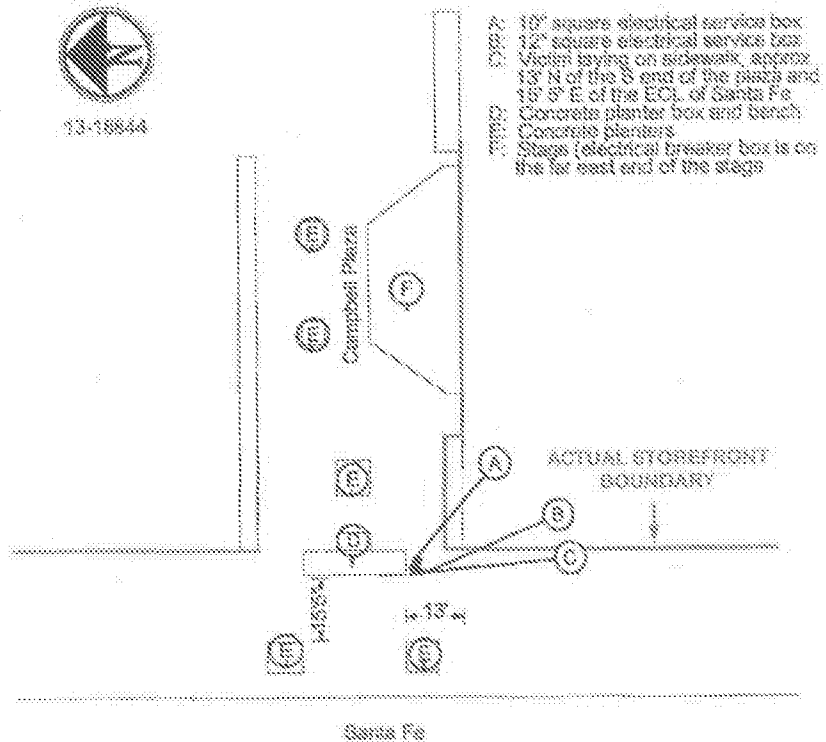
Clarification on this issue is vital as the Court's determination regarding the location of the junction box as it relates to the actual sidewalk and Campbell Plaza may influence the applicability of the recreational use immunity provision of the Kansas Tort Claims Act (KTCA) as found in K.S.A. 75-6104(o).

Appellants are in no manner suggesting anything underhanded on Appellee's part. To the contrary, the subject diagram was prepared by the City of Salina's Police Department during their post-accident investigation of Jayden Hicks' electrocution prior to counsels' involvement. Nonetheless, the diagram is used as partial foundation for Appellee's arguments. Thus, compelling this clarification.

A. The accident scene diagram as offered in Appellee's brief:



B. The accident scene diagram with the accurate storefront boundaries:



### C. Accident Scene Photograph

The storefront boundaries are in reality further east than depicted in the subject diagram. The photograph below taken from the south side of the electrical junction box, including the storefronts, further illustrates the diagram's inaccuracies.



(R. Vol. 3 p. 755)

Respectfully submitted,

BARTINUS, FRICKLETON and ROBERTSON P.C.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was filed with the Court by electronic filing, and a copy delivered by U.S. Mail, on the 9th day of February, 2016, addressed as follows:

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