

**DEPOSITION OF BAILI RHODES**  
**APRIL 12, 2016**

1 Q: Please state your name for the record?

2 A: My name is Baili Rhodes.

3 Q: Mrs. Rhodes, are you the surviving spouse of William T. Rhodes?

4 A: Yes, Rocky – we called him Rocky – was my husband.

5 Q: How long were you all married?

6 A: Eighteen good years. Twenty-two in all.

7 Q: Where did you and Mr. Rhodes reside?

8 A: Armadillo, Lone Star.

9 Q: Prior to his death, what did Mr. Rhodes do for a living?

10 A: Mr. Rhodes taught chemistry at the Armadillo High School. And on weekends and in the  
11 summers, he was a contract grain sampler, working for Austin Grain Sampling Company.

12 Q: And what do you do for a living, Mrs. Rhodes?

13 A: When our kids were young, I was a stay-at-home wife. As they got older, I have done  
14 some contract work for a local CPA. I have an accounting degree that I use sporadically.  
15 And from time to time, I would help Rocky with his grain sampling task.

16 Q: What is it that a grain sampler does?

17 A: As the name applies, a grain sampler samples grain. It turns out that grain has to be  
18 sampled and certified by a grain sampling laboratory before it can be sold from an  
19 elevator to anybody else. Federal regulations say it has to be sampled for quality, weight,  
20 moisture and the presence of deleterious substances like rodent feces or bugs.

21 Q: Which part of that work were you and Rocky doing?

1 A: We would actually pull the grain samples from the tops of railcars immediately after they  
2 were loaded at an elevator, then send the samples to Austin Grain Sampling.

3 Q: How did you pull these samples?

4 A: We would pull a sample with a specially built grain sampling probe. That's a hollow rod  
5 that's made out of brass, 10 feet long, with another hollow brass rod built inside that  
6 could turn. The inside rod has slots in it that line up with slots on the outer part of the  
7 probe. What you would do is you would shove the probe into the grain at an  
8 approximately 10 degree angle, with the outer slots turned upward. When the probe is all  
9 the way into the grain, you turn this handle at the top that lines up the interior slots with  
10 the ones on the outer part. Grain then flows into the probe, then you twist the knob  
11 further and close the slots, then pull the whole thing back out.

12 Q: What do you do then?

13 A: Once you get it out of the grain, you tip it up. There's an open hole at the end of the rod  
14 where the grain can flow back out into a grain sampling bag. The grain sampler samples  
15 grain from each of three hoppers on each grain car, and pours all of the grain from that  
16 car into the same bag. You then seal the bag and put a tag on it indicating what car it  
17 came from and sign the tag, then drop it off the top of the car to be picked-up later. After  
18 you've got the sample, you apply a little metal seal to the hatches on the car. Then you  
19 carefully make your way to the next grain car, just walking along the tops of the car until  
20 you've sampled all of them.

21 Q: Can you tell us what Exhibit 4 is?

22 A: Yes, that's a photo of the grain sampling probe that Rocky was using.

23 Q: What happens to the bags after you toss them off the top of the car?

1 A: You go back and pick up the bags and put them in this big mesh bag and drop it off at a  
2 storage unit. The grain sampling company would then come pick those up and take them  
3 to their lab to be sampled.

4 Q: You say you helped Rocky with some of these tasks from time to time?

5 A: Yes, when I wasn't doing anything else, and when the kids were old enough to make  
6 macaroni for themselves, I would go with Rocky to help.

7 Q: Did you actually go up on the grain cars with him?

8 A: Yes, we would go up together. I would go place empty bags along the cars, and he would  
9 start sampling. I wasn't strong enough to pull a probe full of grain out of the car, but I  
10 could hold the bag for him while he emptied it.

11 Q: How often would you do this?

12 A: Probably half of the time that Rocky sampled cars, I would be right there with him.

13 Q: Can you identify Exhibit 11?

14 A: Yes, I have seen that document before, and I recognize Rocky's signature at the bottom  
15 of it. That sure enough is Rocky's signature.

16 Q: Can you tell us what this document is?

17 A: It is entitled Grain Sampling Instructions from Austin Grain Sampling Company.

18 Q: On the second page, the last paragraph, there is a warning about power lines. Did you  
19 ever read that before this accident happened?

20 A: No sir, I never read this document before that time.

21 Q: When you first went out with Rocky to help him do this work, did he give you any  
22 instructions or warnings?

1 A: Yes, he showed me how the grain probe worked, and he showed me how to step from  
2 railroad car to railroad car. He also told me that I needed to be real careful walking  
3 along the edge of those rail cars, because they are 15 feet tall and there is a real risk that  
4 you can step off of one.

5 Q: Did he ever give you any warning or instructions about working around power lines?

6 A: You know, in the places where I worked with Rocky, we were always out on the spur  
7 tracks at the edge of some town, and there were never any power lines around. So, no, he  
8 never mentioned power lines to me. He just talked about the danger of walking along the  
9 edge of the car.

10 Q: Can you identify Exhibit 5?

11 A: Yes, that is a photograph of the top of one of these grain cars.

12 Q: And where is the walkway on one of these cars?

13 A: The walkway is at the very left edge of the car as you're looking at this photo. In the  
14 center of the car you have these hinged lids that open so that you can load them with  
15 grain. Those lids are also where you can pull a sample of grain.

16 Q: So where does a grain sampler stand when he is using a grain probe to get a sample?

17 A: She stands on the walkway at the very edge of the railcar.

18 Q: Can you identify Exhibit 6?

19 A: Yes, that's a photograph of a man taking a measurement from the ground to the walkway.

20 Q: Do you know what that measurement was?

21 A: Yes, it was fifteen feet from the ground to the bottom of the walkway.

22 Q: When you're standing on one of these walkways, how far above the walkway is the top  
23 of your head?

1 A: That depends on how tall you are.

2 Q: How tall are you?

3 A: I'm 5'8", so the top of my head would be 5 foot 8 inches above the walkway.

4 Q: How tall was Rocky?

5 A: Rocky was 6 foot 1 inches tall, so the top of his head would have been 6 feet 1 inches  
6 above the walkway.

7 Q: If the walkway is 15 feet above the ground, and Rocky was 6 feet plus 1 inch, how far  
8 above the ground was his head?

9 A: 15 feet plus the 6 feet and an inch, so 21 feet and an inch.

10 Q: Where was Mr. Rhodes when this accident happened?

11 A: He was here in Armadillo, out at Armadillo Elevator Company, which is about half a  
12 mile outside the city limits.

13 Q: Had he ever sampled grain at Armadillo Elevator before?

14 A: No, that was not his normal place to sample. He had a series of little towns that were up  
15 to 50 miles away from Armadillo where he usually went to sample. Armadillo Elevator  
16 was a company that one of his friends named Dusty Stockard usually sampled.

17 Q: Why was Rocky sampling at Armadillo Elevator on the day of the accident?

18 A: Dusty had called and said that he was sick, and asked Rocky to run out and sample a  
19 hundred grain cars that were sitting on the spur track out there.

20 Q: Did you hear that conversation?

21 A: Yes, we were in his truck at the time and it came over the speaker.

22 Q: Was anything else said about the premises of Armadillo Elevator during that  
23 conversation?

1 A: No sir.

2 Q: Did Rocky go out to do the sampling that day?

3 A: Well, he went out that day, but it had just rained and the whole area was muddy, so he  
4 decided not to take a risk by sampling that day. With all that mud and all, he might have  
5 slipped off the car.

6 Q: So when did he go out?

7 A: He went out the next day, the day of the accident.

8 Q: How long did he stay out there the first day?

9 A: He was only there a few minutes, then he came back to the house.

10 Q: After the accident, did you ever talk to anyone at the Armadillo Police Department about  
11 what had happened?

12 A: Yes, there was a police woman at the hospital when I got there. She expressed her  
13 condolences, and then she handed me a bag with all of Rocky's personal effects in it.  
14 Said she didn't need them as part of the investigation.

15 Q: Were there any headphones or earbuds in that bag of personal effects?

16 A: No. And to my knowledge, Rocky never listened to any kind of music when he was  
17 sampling grain.

18 Q: Did Rocky have a set of headphones or earbuds?

19 A: Yes, he had a set of Bluetooth connected wireless earbuds.

20 Q: Where those noise cancelling earbuds?

21 A: Oh goodness no, those noise cancellers are way too expensive.

22 Q: Did he listen to music often?

1 A: Sometimes when we were out in the boonies, he'd listen to a particular song called  
2 Armadillo Blues.

3 Q: With headphones or earbuds?

4 A: No, unfortunately over the truck audio system.

5 Q: Can you identify Exhibit 7?

6 A: Yes, that's the list of Rocky's personal effects that the folks at Armadillo Hospital gave  
7 me the night I was there.

8 Q: Do you see any headphones or earbuds listed on Exhibit 7?

9 A: No, and they didn't give me any either.

10 Q: Was there anything about this accident that you know, other than what you have  
11 described here in your deposition?

12 A: No sir.