

IN THE INDIANA SUPREME COURT
CAUSE NO. _____

CARLA MILLER,
APPELLANT

v.

INDIANA GAS CO., INC.,
APPELLEE

) An Appeal from the Clark Circuit Court No. 2
)
)
) Trial Court Case No(s): 10C02-2005-CT-067
) The Honorable William A. Dawkins,
) Magistrate Judge
)
) Indiana Court of Appeals Case No.: 25A-CT-866
)
)
)
)
)

APPELLANT'S PETITION TO TRANSFER

/s/ Ashton Rose Smith

Ashton Rose Smith (Temporary No.: 9679-95-9TA)

/s/ Emily A. DeVuono

Emily A. DeVuono, (Indiana Bar No.: 35617-22)

MOORE LAW GROUP, PLLC

1473 South 4th Street

Louisville, KY 40208

T: (502) 717-4080

F: (502) 717-4086

ashton@moorelawgroup.com

emily@moorelawgroup.com

Counsel for Appellant/Plaintiff, Carla Sue Miller

I. QUESTION(S) PRESENTED ON TRANSFER

- A. Whether the Court of Appeals failed to undertake the proper analysis specific to Ms. Miller’s negligence claim, which she had *not* abandoned, and had the Court undertaken the proper analysis, Ms. Miller’s negligence claim would proceed;
- B. Whether the Court of Appeals misapplied TR 56(E) by improperly weighing the facts and evidence giving more weight to after-the-fact testing performed by movant, Indiana Gas, over the firsthand testimony of Ms. Phillips and therefore, failed to liberally construe all evidence in favor of the non-moving party, Ms. Miller, as it is required to do, and instead drew all inferences from disputed facts in favor of the movant, Indiana Gas in contradiction to precedent from this Court, specifically, *Mid-America Sound Corp. v. Ind. State Fair Comm’n (In re Ind. State Fair Litig.)*, 49 N.E.3d 545 (Ind. 2016) and *Hughley v. State*, 15 N.E.3d 1000 (Ind. 2014); and
- C. Whether the Court of Appeals misapplied Indiana strict product liability law, specifically the Indiana Product Liability Act (“IPLA”) by failing to undertake the proper analysis and misapplying the standard to Ms. Miller requiring that she “prove the natural gas provided by Indiana Gas was defective,”¹ which is *not* the standard at the summary judgment stage.

¹ Opinion at pp. 17-18, ¶ 27, and pp. 19-20, ¶ 30.

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III. BACKGROUND AND PRIOR TREATMENT OF ISSUES

On May 19, 2019, a devastating gas explosion at 904 Assembly Road, Jeffersonville, Indiana destroyed the home of William “Billy” Phillips and Janet Phillips, and the home of their next-door neighbor, Carla Miller. Billy Phillips was killed in the explosion and Janet Phillips and Ms. Miller were severely injured. (Vol. II, Miller-ROA-000062-75; Miller-ROA-000105-118.) Indiana Gas provided the gas to the Phillips’ home. Insurance claims and lawsuits initiated, and Indiana Gas subsequently settled with Ms. Phillips and her husband’s Estate in March 2024. (Vol. VII, Miller-ROA-000014.) Indiana Gas also settled with Ms. Miller’s insurance company (who had intervened), reimbursing insurance for Ms. Miller’s property damage in December 2024. (Vol. VIII, Miller-ROA-000118.) The only claim remaining is Ms. Miller’s injury claim, which the Trial Court improperly dismissed on summary judgment depriving Ms. Miller of her day in court and shielding Indiana Gas from liability after it settled with the other parties.

The main issue is whether the gas contained the proper level of odorant. The parties heavily disputed this issue. On one hand, Indiana Gas argued based upon after-the-fact testing that odorant was within the federal limit and therefore, they were entitled to summary judgment. On the other hand, the non-moving party showed that Janet Phillips did not smell gas (nor did Carla Miller). (Vol. IX, Miller-ROA-00063-64.) Also, Billy Phillips never stated to Janet that he smelled gas in the 13 plus hours gas was flooding their home. (*Id.*) Indiana Gas’ corporate representative agreed odorant is the customer’s leak detector. (Vol. V, Miller-ROA-000075-79.) Indiana Gas conceded “a person with a normal sense of smell should have been able to identify a readily detectable odorant in the – in the gas that we delivered to them.” (Vol. X, Miller-ROA-000101.) Both the Trial Court and Court of Appeals improperly disregarded the testimony evidence in favor of the movant’s evidence. Such weighing of the evidence was a misapplication of Indiana law.

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Because natural gas is colorless, odorless, highly flammable and explosive when mixed with air, it is considered inherently dangerous and therefore, federal laws and regulations (49 CFR § 192.625, *et seq.*) require the addition of odorant to give natural gas a noxious smell so that leaks can be detected by consumers. (Vol. IV, Miller-ROA-000084-86, Vol. V, Miller-ROA-000017-19.) The purpose of odorant is to protect consumers, who rely on Indiana Gas to properly odorize the gas it sells to them. (Vol. V, Miller-ROA-000049.) Indiana citizens otherwise have no way to protect themselves from a deadly gas leak and explosion like what happened here.

Data from the gas meter after the deadly explosion revealed an increased gas flow into the Phillips' home for ***over thirteen (13) hours*** beginning Saturday afternoon while the Phillips were home and then sleeping through the night until the explosion Sunday morning around 5:00a.m. (Vol. VI, Miller-ROA-000140-141.)

The record is undisputed that no one smelled gas during those 13 hours.

On May 28, 2020, a Complaint was filed on behalf of the Phillips for their injuries and on March 19, 2021, Carla Miller filed a Motion to Intervene, which was granted. (Vol. II, Miller-ROA-000059, Vol. II, Miller-ROA-000102, Miller-ROA-000105.) Ms. Miller did not smell gas prior to the explosion and just like the Phillips, Ms. Miller alleged the gas was improperly odorized and/or under-odorized. (*Id.*)

Just before settling with Miller's insurance carrier, Indiana Gas moved for summary judgment against Ms. Miller arguing three odorator readings that it performed ***after*** the explosion established the level of odorant was within specified limits for the 13 plus ***prior*** hours, and therefore, Indiana Gas should be absolved of all liability. (Vol. VII, Miller-ROA-000118, Miller-ROA-000121.) However, the non-moving party, Ms. Miller, presented contrary evidence in the form of sworn testimony making summary judgment improper because disputed issues of fact exist

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– whether the gas was properly odorized, whether the odorant performed as intended, and whether Indiana Gas fulfilled its nondelegable duty under the law.

On March 14, 2025, the Trial Court improperly weighed the evidence granting summary judgment in favor of Indiana Gas. (Vol. II, Miller-ROA-000036.) The Trial Court assumed that Indiana Gas’ three after-the-fact odorator tests (without indication of who performed each test, the times they were taken, the values recorded and required to reach the percentage, and a host of other missing, disputed information), meant that *prior* to the explosion, the gas inside the Phillips’ home was properly odorized beyond question or reproach. (Vol. II, Miller-ROA-000045 ¶¶ 50-51.) However, Ms. Miller presented evidence that *prior* to the explosion, the gas was not properly odorized by Indiana Gas. No one smelled the gas for over 13 hours prior to the explosion. This sworn testimony **directly conflicts** with Indiana Gas’ after-the-fact testing and therefore, was sufficient to create a disputed issue of fact.

But the Trial Court weighed the evidence, found Indiana Gas’ after-the-fact testing to be the most persuasive evidence and treated it as a verdict – stripping Ms. Miller of her constitutional right to jury trial.

Having been denied her day in court, Ms. Miller appealed to the Court of Appeal. After briefing and oral argument, on February 20, 2026, a three-judge panel issued an Opinion affirming summary judgment in favor of Indiana Gas. (25A-CT-866, Opinion, February 20, 2026 (hereinafter “Opinion”).)

This petition to transfer followed.

IV. ARGUMENT

If left undisturbed, the Opinion would result in a significant, troubling departure from Indiana law and the application of TR 56 by creating an interpretation of law that firsthand testimony is insufficient to create a genuine issue of material fact when contradicted by after-the-fact evidence. That is not Indiana law, but if the Court of Appeals’ decision stands, it will be cited for precisely that proposition, eroding the fundamental principle that credibility determinations and conflicting inferences belong to the province of the jury.

This Court’s intervention is necessary to reaffirm that TR 56 does not require plaintiff prove her case at the summary judgment stage, and that sworn testimony alone is evidence sufficient to preclude summary judgment.

Ind. Appellate Rule 57(H) provides (in pertinent part) that this Court may grant transfer where:

(1) *Conflict in Court of Appeals’ Decisions.* The Court of Appeals has entered a decision in conflict with another decision of the Court of Appeals on the same important issue.

(2) *Conflict with Supreme Court Decision.* The Court of Appeals has entered a decision in conflict with a decision of the Supreme Court on an important issue.

* * * *

(6) *Significant Departure From Law or Practice.* The Court of Appeals has so significantly departed from accepted law or practice or has sanctioned such a departure by a trial court or Administrative Agency as to warrant the exercise of Supreme Court Jurisdiction.

A. Whether the Court of Appeals failed to undertake the proper analysis specific to Ms. Miller’s negligence claim, which she had *not* abandoned, and had the Court undertaken the proper analysis, Ms. Miller’s negligence claim would proceed.

Ms. Miller pursued both strict product liability and negligence claims. (Vol. II, Miller-ROA-000102, Miller-ROA-000105, ¶¶ 98-119, 120-129, 147-149.) Her Complaint alleges,

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among other things, that Indiana Gas failed to (i) properly odorize the gas; (ii) failed to properly warn of the odorant fading and not performing as intended; and (iii) is strictly liable for these failures pursuant to the IPLA. (*Id.* at ¶¶ 88, 89, 103, 104, 108, 109, 110, 111, 115, 116, 117, 122 (a-m), 123, 124, 125 (a-e).)

The Court of Appeals Opinion states that Ms. Miller abandoned her negligence-based claims on appeal (Opinion at fn2); however, this is incorrect. Ms. Miller’s counsel specifically stated that Ms. Miller maintains her negligence claim, in addition to her product liability claim. (Appellate Oral Argument at 7:25, *Miller v. Indiana Gas*, 25A-CT-866, <https://mycourts.in.gov/arguments/default.aspx?&id=3063&view=detail&yr=&when=&page=2&court=&search=&direction=%20ASC&future=False&sort=&judge=&county=&admin=False&pageSize=20>).

Negligence claims have three elements: (1) a duty owed by the defendant to the plaintiff; (2) breach of that duty; and (3) injury to that plaintiff proximately caused by defendant’s breach. *Diocese of Fort Wayne S. Bend, Inc. v. Gallegos*, 203 N.E.3d 1080, 1085 (Ind. Ct. App. 2023) (internal citations omitted).

Had the Court of Appeals undertaken the proper analysis, Ms. Miller’s negligence claim would proceed. It is undisputed that Indiana Gas has a nondelegable duty to properly odorize the gas that flooded the Phillips’ home and caused this deadly explosion. It is also undisputed that Ms. Miller was injured by this deadly explosion. There is a disputed issue of fact as to whether the gas was properly odorized, meaning there is a disputed issue of fact regarding whether Indiana Gas breached its nondelegable duty to properly odorize the gas that caused this explosion. “In negligence cases, summary judgment is rarely appropriate because such cases are particularly fact sensitive and are governed by a standard of the objective reasonable person – one best applied by

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a jury after hearing all of the evidence.” *Al-Sinan v. Blackbird Farms Apts., LLC*, 139 N.E.3d 224, 226 (Ind. Ct. App. 2019).

In reviewing the evidence the Court of Appeals relied upon, there is **zero contemporaneous** evidence that Indiana Gas had properly odorized the gas during the 13 plus hours the gas was flooding the Phillips’ home. Ms. Phillips testified that she never smelled gas prior to the explosion. (Vol. IX, Miller-ROA-00063-64.) Properly odorized gas would have been detectable; Indiana Gas confirmed this. (Vol. X, Miller-ROA-000101-102.)

To dispute Ms. Miller’s claim that the natural gas was not properly odorized, Indiana Gas only presented **after-the-fact** evidence of its odorator readings performed *post*-explosion and therefore, can only establish odorant levels **after** the explosion, not prior like Ms. Phillips and Ms. Miller’s testimony. This is critical because it means Ms. Miller’s contemporaneous evidence that the gas was not properly odorized is uncontroverted. Equally troublesome, the Court of Appeals treated Indiana Gas’ after-the-fact testing as dispositive, but there are no affidavits from the individuals who performed the testing and therefore, no information on the process used for collecting these readings was part of the record. Moreover, Ms. Miller had not yet had the opportunity to depose these individuals at the time summary judgment was granted. Thus, left undisturbed, the decision below invites courts to disregard firsthand testimony in favor of *post hoc* testing converting Rule 56 into a mechanism for weighing evidence. That is incompatible with this Court’s precedent. *Johnson v. Wabash County*, 181 Ind. App. 281, 288 (Ind. Ct. App. 1979) (“A judge may not use summary judgment procedure to weigh the evidence to determine where the preponderance lies. . .”).

The Court of Appeals did not perform a negligence analysis; it only performed (*albeit* incorrectly as described below) analysis under the IPLA. (Opinion at pp. 17-18.) Importantly,

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Ms. Miller did not abandon her negligence claim and the Court of Appeals failed to properly undertake that analysis and failed to apply the summary judgment standard as described below. Had it done so, that analysis establishes: (1) indisputably Indiana Gas had a nondelegable duty to provide properly odorized natural gas to all consumers, including Miller; (2) there is a disputed issue of fact as to whether Indiana Gas satisfied its duty; and (3) there is no dispute that Ms. Miller was injured as a result of the explosion. Two of the three negligence elements are met and there is a disputed issue of fact regarding the second issue – whether the defendant satisfied its duty. Given there is a disputed issue of fact regarding whether Indiana Gas satisfied its duty to properly odorize the gas, summary judgment on Ms. Miller's negligence claim is improper and this claim should be remanded.

B. Whether the Court of Appeals misapplied TR 56(E) by improperly weighing the facts and evidence giving more weight to after-the-fact testing performed by movant, Indiana Gas, over the firsthand testimony of Ms. Phillips and therefore, failed to liberally construe all evidence in favor of the non-moving party, Ms. Miller, as it is required to do, and instead drew all inferences from disputed facts in favor of movant, Indiana Gas in contradiction to precedent from this court, specifically, *Mid-America Sound Corp. v. Ind. State Fair Comm'n (In re Ind. State Fair Litig.)*, 49 N.E.3d 545 (Ind. 2016) and *Hughley v. State*, 15 N.E.3d 1000 (Ind. 2014).

Ms. Miller argued the gas that flooded the Phillips' home and caused the explosion was not properly odorized. Neither Miller nor Phillips smelled the odorant. In fact, no one smelled gas in the 13 hours prior to the explosion. Conversely, Indiana Gas argues it was properly odorized and should have been detectable by a person with a normal sense of smell during the 13 plus hours gas flooded the Phillips' home.

These two contentions are **directly in conflict creating a disputed issue**. Either the gas was not properly odorized, or something else prevented Janet Phillips from smelling the noxious odor that was flooding her home at exponentially elevated levels for 13 hours. That conflict and credibility determination is a question for the jury to resolve. "Summary judgment is inappropriate

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whenever a conflict of evidence *may* exist on a material issue.” *Diocese of Fort Wayne S. Bend, Inc. v. Gallegos*, 203 N.E.3d at 1086 (emphasis in original) (quoting *Purcell v. Old Nat’l Bank*, 972 N.E.2d 835, 841 (Ind. 2012)). Whether the gas was properly odorized is the material issue in this case.

The location of the gas leak is inconsequential because the material issue is whether the gas was properly odorized. The point of odorization is so that individuals can smell a gas leak – regardless of what caused it – and save themselves by evacuation and contacting authorities. Indiana Gas’ post-explosion testing is only *one* piece of evidence as to whether the gas was properly odorized *before* the explosion; however, the trial court and Court of Appeals improperly treated Indiana Gas’ after-the-fact testing as dispositive – as a verdict. (Opinion at pp. 18-19, ¶¶ 29-30.) But it is not. As this Court explained,

As we have recently reiterated, summary judgment imposes a heavy factual burden on the moving party – and a correspondingly light burden for the non-movant’s response – because **Indiana consciously errs on the side of letting marginal cases proceed to trial on the merits**, rather than risk short-circuiting meritorious claims. By definition, **cases that hinge upon disputed facts are inappropriate for summary judgment, because weighing evidence – no matter how decisively the scales may seem to tip – is a matter for trial**, not summary judgment.

Mid-America Sound Corp. v. Ind. State Fair Comm’n (In re Ind. State Fair Litig.), 49 N.E.3d 545, 548 (Ind. 2016) (citing *Hughley v. State*, 15 N.E.3d 1000, 1004, 1005-1006 (Ind. 2014) (emphasis added)).

Janet Phillips has firsthand knowledge of the 13 plus hours where natural gas was flooding her home. She is the survivor closest to the explosion. Had odorant been present at the proper levels, the smell should have been overwhelming to her. Indiana Gas admitted through its corporate representative that if odorant was properly added, the smell at the undisputed levels inside the Phillips’ home should have been at the very least detectable by someone with a normal

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sense of smell. (Vol. X, Miller-ROA-000101-102.) While the Court of Appeals acknowledged this testimony, it held that there was no disputed issue of fact. (Opinion at pp. 9-10, ¶ 16.)

Ms. Miller argued below that the fact that Janet Phillips did not smell gas likely means the gas was not properly odorized or the odorant was not functioning correctly. Of course, Indiana Gas argued that it *could* mean something else kept Janet Phillips from smelling the odorant. This is the textbook definition of *competing inferences*. Under Indiana law, summary judgment is inappropriate when the evidence before the court reveals a good faith dispute as to the inferences to be drawn from the facts. *State v. American Motorists Inc. Co.*, 463 N.E.2d 1143, 1146 (Ind. Ct. App. 1984). The conclusions to be drawn from these competing inferences involve the credibility of witnesses and the weight of testimony and evidence making it inappropriate for summary judgment. *American States Ins. Co. v. State*, 152 Ind. App. 422 (Ind. Ct. App. 1972) (“If there is a question of state of mind, credibility of witnesses, or weight of testimony, summary judgment should be denied.”). A jury could easily believe Ms. Phillips and Ms. Miller’s testimony over post-explosion testing by the defendant. This factual determination should have been reserved for the jury.

Moreover, Janet Phillips’ testimony is evidence. That evidence creates a disputed issue of fact sufficient to preclude summary judgment. In *Al-Sinan v. Blackbird Farms Apts., LLC*, 139 N.E.3d 224, *5 (Ind. Ct. App. 2019), the Court of Appeals held, “[plaintiff’s] deposition testimony alone is sufficient to create an issue of material fact as to whether Blackbird breached its duty to keep its walkways clear of hazardous conditions. As such, the trial court erred by granting summary judgment in favor of Blackbird” (emphasis added). Here, the Court of Appeals disregarded Ms. Phillips’ testimony. This is in **direct conflict** with the holding in *Al-Sinan* and creates division on a critical issue – protecting a party’s day in court and not short-circuiting the

trial process. This Court has expressly stated that “Indiana’s summary judgment policies aim to protect a party’s day in court.” *Hughley v. State*, 15 N.E.3d 1000, 1003 (Ind. 2014).

Indeed, this Court has held a victim’s uncorroborated testimony is sufficient to sustain a criminal conviction² – surely then, the testimony of a witness – indeed the survivor closest to the explosion – is sufficient to create a disputed issue of fact precluding summary judgment and allowing this case to go to the jury. To hold otherwise lessens the evidentiary impact of testimony, which creates a split and conflict in Indiana case law. *See Hughley*, 15 N.E.3d at 1005 (*holding* “sworn testimony by affidavit is direct evidence to the contrary, and so the factfinder must reconcile the credibility of those two accounts.”). That is because summary judgment “should not be granted when it is necessary to weigh the evidence.” *Id.*

Finally, just like the Trial Court, the Court of Appeals was required to construe all evidence in the light ***most favorable*** to Ms. Miller. *State v. American Motorists Inc. Co.*, 463 N.E.2d 1143 at 1146. Instead, the Court of Appeals failed to construe Janet Phillips’ testimony in Ms. Miller’s favor and failed to even acknowledge other evidence designated by Ms. Miller, much less failed to construe it in her favor. For example, in support of its Motion for Summary Judgment, Indiana Gas relied on the affidavit of its corporate representative specifically stating that he *did smell gas* in the ambient air after the explosion *just walking by* 908 Assembly, which is how he “***knew***” the gas was properly odorized. (Vol. VII, Miller-ROA-000017). But the Court of Appeals explained this away, stating it made sense that *no one* smelled gas after the explosion. (Opinion at p. 20, ¶ 31.) The Court of Appeals also failed to consider the testing on Assembly Drive immediately after the explosion at 2% LEL in excess of the federal limit that was designated by Ms. Miller. (Vol.

² *Carter v. State*, 754 N.E.2d 877 (2001).

VII, Miller-ROA-000131.) This conflicting evidence and the inferences to be drawn from these contradictions are for the factfinder to determine, not the Court.

Allowing the Court of Appeals’ decision to stand transforms summary judgment from a tool for identifying *the absence* of disputes, into a mechanism for resolving disputes. This Court should grant transfer to reaffirm that determinations of factual disputes – especially those grounded in firsthand testimony – belong to juries.

C. Whether the Court of Appeals misapplied Indiana strict product liability law, specifically the Indiana Product Liability Act (“IPLA”) by failing to undertake the proper analysis and misapplying the standard to Ms. Miller requiring that she “prove the natural gas provided by Indiana Gas was defective,”³ which is *not* the standard at the summary judgment stage.

The Opinion states that pursuant to the IPLA, “Miller was **required to prove** that the natural gas provided by Indiana Gas was defective.” (Opinion at pp. 19-20, ¶ 30.) But that is incorrect and that standard completely departs from settled law. At the summary judgment stage, Miller is only required to demonstrate a disputed issue of fact. *Diocese of Fort Wayne S. Bend, Inc. v. Gallegos*, 203 N.E.3d at 1086.

Pursuant to the IPLA, one who sells or otherwise puts into the stream of commerce any product has a duty to consumers; **if the product is in a defective condition unreasonably dangerous to any user or consumer, the seller is subject to liability for physical harm caused by that product to the user or consumer if the user or consumer is in the class of persons that the seller should reasonably foresee as being subject to the harm caused by the defective condition**, and if (1) the seller is engaged in the business of selling such a product; and (2) the product is expected to and does reach the user or consumer without substantial alteration in the condition in which it is sold by the person sought to be held liable under this chapter. Ind. Code

³ Opinion at pp. 17-18, ¶ 27, and pp. 19-20, ¶ 30.

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33-1-1.5-3(a). *See Heritage Operating, L.P. v. Mauck*, 37 N.E.3d 514, 522 (Ind. Ct. App. 2015) (“As a distributor of gas, we hold that Empire Gas owed a *general duty of reasonable care to any persons* who might be injured by its propane, which includes the tenants occupying the property.”) (emphasis added).

The IPLA recognizes three ways a product can be defective: (i) manufacturing defect, (ii) defective design, or (iii) the manufacturer failed to give adequate information about the product, such as the failure to warn of dangers while using the product. Ind. Code § 34-20-2-3. “A product is in a defective condition ... if, at the time [the product] is conveyed by the seller to another party, it is in a condition: (1) not contemplated by reasonable persons among those considered expected users of the product; and (2) that will be unreasonably dangerous to the expected user or consumer . . .”. *Bayer Corp. v. Leach*, 153 N.E.3d 1168, 1179-80 (Ind. Ct. App. 2020).

Here, the relevant question involves who is responsible for odorization and whether its duty was met. Indisputably **only Indiana Gas is responsible for odorization**. There is a genuine dispute of material fact as to whether Indiana Gas satisfied its duties under the IPLA *before the explosion* making summary judgment improper.

In performing its analysis, the Court of Appeals applied the wrong standard: “**Miller was required to prove** that the natural gas was in a defective condition at the time it was distributed to the Phillips Residence and the improper odorization was what caused this defective condition.” (Opinion at p. 18, ¶ 27.) But this is incorrect.

At the summary judgment stage, Ms. Miller does **not** have to prove her case. “To survive a motion for summary judgment, **evidence sufficient to support a verdict is not required**.” *Diocese of Fort Wayne S. Bend, Inc. v. Gallegos*, 203 N.E.3d at 1086 (emphasis added). Rather, defeating summary judgment requires only a genuine issue of material fact, not necessarily a

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persuasive issue of material fact – the trier of fact must decide which evidence is persuasive, and this Court should send that determination to the jury's capable hands. *See Siner v. Kindred Hosp. Ltd. P'ship*, 51 N.E.3d 1184, 1190 (Ind. 2016).

V. CONCLUSION

The Court of Appeals improperly weighed the evidence in favor of the movant, misapplied the law, failed to properly apply the summary judgment standard and undertake the proper analyses thereby depriving Miller of her day in court. If allowed to stand, the Court of Appeals' decision will narrow the ability of plaintiffs to reach a jury in cases where firsthand testimony conflicts with *post hoc* evidence, manufacturing a rule that favors one type of evidence over another.

For the foregoing reasons, Appellant, Carla Miller, hereby prays this Court grant her Petition for Transfer, setting a briefing schedule on the issues set forth herein.

/s/ Ashton Rose Smith

Ashton Rose Smith (Temporary No.: 9679-95-9TA)

/s/ Emily A. DeVuono

Emily A. DeVuono, (Indiana Bar No.: 35617-22)

MOORE LAW GROUP, PLLC

1473 South 4th Street

Louisville, KY 40208

T: (502) 717-4080

F: (502) 717-4086

ashton@moorelawgroup.com

emily@moorelawgroup.com

Counsel for Appellant/Plaintiff, Carla Sue Miller

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WORD COUNT CERTIFICATE

Pursuant to Rule 44 of Appellate Procedure, I verify that this Petition contains no more than 4,200 words. I verify that this Petition contains 4,194 words.

/s/ Ashton Rose Smith

Ashton Rose Smith (Temporary No.: 9679-95-9TA)

/s/ Emily A. DeVuono

Emily A. DeVuono, (Indiana Bar No.: 35617-22)

MOORE LAW GROUP, PLLC

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 6TH day of April 2026, the foregoing was filed with the Clerk of the Indiana Supreme Court/Court of Appeals, through the Indiana E-filing system.

I hereby certify that on this 6TH day of April 2026, the foregoing was served upon the following persons, through the Indiana E-filing system:

Thomas J. Costakis
Hilary K. Leighty
Libby Yin Goodknight
KRIEG DEVAULT LLP
One Indiana Square, Suite 2800
Indianapolis, IN 46204
tcostakis@kdlegal.com
hleighty@kdlegal.com
lgoodknight@kdlegal.com

Blake P. Holler
KRIEG DEVAULT LLP
12800 North Meridian Street, Suite 300
Carmel, IN 46032
bholler@kdlegal.com
Counsel for Defendant, Indiana Gas Company, Inc.

/s/ Ashton Rose Smith
Ashton Rose Smith (Temporary No.: 9679-95-9TA)
/s/ Emily A. DeVuono
Emily A. DeVuono, (Indiana Bar No.: 35617-22)
MOORE LAW GROUP, PLLC
1473 South 4th Street
Louisville, KY 40208
T: (502) 717-4080
F: (502) 717-4086
ashton@moorelawgroup.com
emily@moorelawgroup.com
Counsel for Appellant/Plaintiff, Carla Sue Miller