

**ABOTA FOUNDATION LATVIA CONFERENCE
RIGA, LATVIA
JUNE 7-10, 2006**



MASTERS IN TRIAL
JANIS FOGELS v. AMERICRAFT INDUSTRIES AND ANDRIS PALIPS

JANIS FOGELS
v.
AMERICRAFT INDUSTRIES
and
ANDRIS PALIPS

Adapted with permission from the problem by Stein, Edward R. & Anthony J. Rocchino, *John Fulbright v. Americraft Industries and Andrew Parker*, Second Edition (NITA 2001).
ISBN 1-55681-764-9

TABLE OF CONTENTS

	<i>Page</i>
Case Synopsis	3
Deposition of Officer Raimonds Obrickis.....	4
Deposition of Janis Fogels	6
Deposition of Vilhelms Briedes	11
Deposition of Andris Palips	13
Deposition of Veronika Ranka.....	17
Deposition of Georgs Markus.....	20
Deposition of Toms Hartmans.....	23
Deposition of Pauls Minkins.....	25
Memorandum to Plaintiff's Attorney	27
Jury Instructions.....	28
Verdict Form.....	31
Special Impeachment Problems	32
Deposition Exhibits.....	33
Diagram of Scene of Accident	Exhibit 1
Police Report	Exhibit 2
Supplemental Police Report.....	Exhibit 3
Georgs Markus Witness Statement	Exhibit 4
Janis Fogels Witness Statement	Exhibit 5
Expense Report (July 20-25).....	Exhibit 6
Fogels Hockey Rating Form	Exhibit 7
Photograph of Janis Fogels	Exhibit 8
Photograph of Veronika Ranka	Exhibit 9
Photograph of Motorcycle.....	Exhibit 10
Photograph of Helmet	Exhibit 11
Photograph of Palips' Car	Exhibit 12
Photographs of Scene of Accident.....	Exhibit 13
Medical Records Cover Page.....	Exhibit 14
Medical Records Emergency Department	Exhibit 15
Balode Discharge Report.....	Exhibit 16
EEG Report	Exhibit 17
Balode Letter	Exhibit 18
Balode Resume	Exhibit 19
Reinholds Report	Exhibit 20
Reinholds Resume.....	Exhibit 21
Epilepsy Article.....	Exhibit 22
Photograph of Vodka.....	Exhibit 23

CASE SYNOPSIS

Janis Fogels has sued Andris Palips and his employer, Americraft Industries, an American-Latvian manufacturer of cereal products, for bodily injury damages arising out of a car-motorcycle accident that took place on Elizabetes Street (Elizabetes Iela) in Riga on July 20, YR-3. Plaintiff Fogels claims that Defendant Palips was negligent in the operation of his Mercedes automobile while engaged in the business of his employer. Defendants have admitted that Mr. Palips was acting in the scope of his employment, but have denied all other material allegations of plaintiff's claim, and affirmatively allege that plaintiff was negligent, and that plaintiff's negligence was the sole proximate cause of the accident.

Plaintiff suffered a grand mal seizure six weeks after the accident and he claims that his epilepsy, which will require life-long medication, is a result of this accident, that this condition has prevented him from playing hockey at a higher level of competition while attending the University of Latvia and has limited his income potential because he cannot become a professional hockey player. Defendants deny that plaintiff's epilepsy was caused by this accident and deny that plaintiff suffered any loss of future income or earnings.

The dates in this case file are stated in the following form:

YR-0 this year (the year in which the case is being tried);
YR-1 last year;
YR-2 the year before last;
and so on . . .

In working with witnesses and making presentations to the court, please use the actual year.

ADDITIONAL INFORMATION:

There is no law requiring the use of a helmet to ride a motorcycle in Riga or in the State of Latvia.

The legal age in Latvia to ride a motorcycle of the type involved in the accident is eighteen years old.

The legal limit for driving in Latvia is alcohol below 0.5 promils, with more severe penalties as the tested limit falls above that point.

It is stipulated that the formula for calculating the distance a vehicle travels in time is as follows:
1 kilometer per hour = 0.28 meters per second.

The diagram shown as Exhibit 1 is not to scale.

The Deposition Exhibits have been pre-marked at trial, for identification purposes only, using the same numeric designations. There has been no stipulation as to their admissibility into evidence.

1 **DEPOSITION OF OFFICER RAIMONDS OBRICKIS**

2

3 My name is Raimonds Obrickis. I am a Police Officer in Riga. My Badge Number is 72342.

4 I have been a Riga police officer for six years. I am a patrol officer. I was the officer who

5 investigated a car-motorcycle accident that took place on Elizabetes Iela on July 20, YR-3.

6

7 I have looked at the report you have showed me and the attached witness statements. That

8 is my report of this incident (EXHIBITS 2,3,4,5). To be honest, I do not have much

9 independent recollection of this accident other than what is in my report. I will answer your

10 questions to the extent I can remember.

11

12 I was called to the scene of this accident at approximately 2:15 p.m. Just as I arrived, so

13 did an ambulance. A young man, who I later determined to be Janis Fogels was lying

14 unconscious on the pavement on Elizabetes Iela between Skolas and Baznicas Ielas. I assisted

15 the ambulance attendant in loading Fogels into the ambulance and was informed that he

16 would be taken to 1 Slimnica (Riga Hospital Number 1).

17

18 I then investigated the accident scene. It was fairly easy to determine what had happened.

19 A motorcycle, driven by Fogels, collided with the front, right quarter panel of a Mercedes,

20 driven by Andris Palips, as Palips attempted to enter into the left lane of traffic on

21 Elizabetes Iela from his parking space in the easternmost lane of Elizabetes. As a result of the

22 collision, Fogels was thrown to his landing place.

23

24 I interviewed the witnesses, who originally included Palips, Veronika Ranka, and

25 Georgs Markus. I spoke to these three witnesses together. As we were talking, we were

26 approached by a boy by the name of Vilhelms Briedes. He handed me a helmet that he said he

27 found in the westernmost lane of Elizabetes Iela approximately halfway between the point of

28 collision and where Fogels came to rest. EXHIBIT 11 is a photograph taken of the

29 helmet at the police station before returning it to the Fogels family. The boy was quite

30 shaken by the incident and I attempted to calm him as best I could. I completed my interviews

31 of all the witnesses. I allowed Palips to leave before the others because he had an important

32 business appointment.

33

34 I attempted to get the adult witnesses to come in to the station the next day to sign

35 statements. Ranka declined. Palips originally agreed, but declined to sign a statement the

36 next day on the advice of counsel. Markus signed a statement the next day. I did not get a

37 signed statement from Briedes because he appeared quite shaken by the incident and I didn't

38 want to further traumatize him.

39

40 The adult witnesses were in agreement that Fogels was traveling at approximately 50

41 mph/80 kph at the time of the collision and probably was not wearing his helmet. The Briedes

42 boy was adamant that Fogels was wearing a helmet, but I discounted his statement because he

43 was so upset.

44

45

1 As I recall, there was some evidence that Palips had consumed some alcohol at lunch,
2 but he was not intoxicated. He was clear and coherent and exhibited no signs of
3 impaired function. I determined that no blood alcohol testing was necessary. The accident
4 occurred when Fogels left the right lane of Elizabetes Iela to pass a truck, and just
5 as he entered the left lane, collided with the Palips vehicle that was pulling into that
6 lane of traffic. I am sure that Fogels' speed had something to do with causing the accident,
7 but so did the failure of Palips to insure that he had a clear lane when he pulled into traffic.
8 It was clear that the accident was unavoidable.

9

10

11 I confirmed this version of the accident with Fogels at I Slimnica (Riga Hospital Number
12 1) later that evening. I cannot say with certainty what he told me, but I did take his statement.
13 I'm sure it's not everything he said, but I try to be accurate. As I said, I had already determined
14 that the accident was unavoidable and that I was not going to issue any citations, so I might
15 have left out something he said. It was the end of a long day when I spoke to him. I typed up
16 the statement when I got back to the station, and I took it out to his house the next day and
17 had him sign it. I can see from looking at his statement that I did get his address and summer
18 job wrong, but that was not significant information in the investigation of this accident.

19

20 You have shown me a diagram of the accident scene on Elizabetes Iela and it is accurate
21 (EXHIBIT 1). It shows the layout of the area where the accident happened. EXHIBIT 13
22 contains photographs that accurately show Elizabetes Iela and the entrance to what was
23 formerly a restaurant called Lacis as it appeared on the date of this accident, the only
24 difference being the name Emporio Armani on the building and awning instead of Lacis.

25

26 I have given full and complete answers to all of your questions. I will read my deposition
27 for accuracy when it is transcribed.

28

29 I have read the foregoing and it is a true and accurate transcription of my deposition given
30 on December 3, YR-2 in the offices of the plaintiff's attorney.

31

32

33

34

35 _____
RAIMONDS OBRICKIS

36

37 Subscribed and sworn before me this 15th day of January, YR-1

38

39

40

41

42 _____
EDUARDS GALEJS

43 Notary

44

45

1 DEPOSITION OF JANIS FOGELS

2

3 My name is Janis Fogels. I am twenty years old and live with my parents and my sister
4 Dagnija, at 214 Bravibas, Apt. 9, in the Vef neighborhood. My dad is a mathematics Professor
5 at the University of Latvia and my mom is an elementary school teacher. I am a second year
6 student at the University of Latvia where I am enrolled in the pedagogy department.
7 program in education. It should take me an additional two years to complete my degree.

8 My long-term goal, now, is to teach physics in secondary school and become a hockey coach
9

10

11

12 I was involved in a car-motorcycle accident on July 20th of YR-3, which was the summer
13 between my 11th and 12th grades of study at Gymnasium No. 1. While in secondary school,
14 I was the center on the hockey team Riga 2000. I had already been featured in
15 HockeysFuture magazine and the Latvian National Hockey Team had recruited me as a
16 possible candidate for the 2006 Championships which were just held in Riga. I was to be
17 captain of my squad the next season. My dad had played for three years in the NHL before he
18 hurt his knee and had to retire. It was my goal to play on the Latvian National team. I may
19 have set my sights high, but I had been told by my coaches that the pros were well within my
20 range. As it turned out, I never found out if the NHL was in my future because of this
21 accident.

22

23

24

25 The accident happened on July 20th of YR-3 at about 2:00 p.m. I had the afternoon off
26 from the summer camp I worked at for kids with muscular dystrophy. My older brother
27 Bendiks had muscular dystrophy. He died when he was twenty-two, back in YR-6. I started
28 to work in the camp the summer after he died. Anyhow, I made plans to have lunch and then
29 spend the afternoon with my girlfriend at the time, Ilona Dadze. I was supposed to pick her
30 up at 1:30. Ilona and I had been going together since we were in junior high. We broke up the
31 September of that year. Our relationship had always centered around sports and being real
32 active, and after what happened to me our relationship changed and we eventually went our
33 separate ways.

34

35 The accident happened, as I said, around 2:00 p.m. I was driving southbound on
36 Elizabetes Iela on my brother's 650 cc Honda motorcycle at the time. Elizabetes is a one-way
37 street going south. It has two traffic lanes and parking on the left side. I had been following a
38 bus in the far right-hand lane for several blocks before I decided to pull around to pass it.
39 The bus was traveling real slowly, about 20 miles per hour (32 kph), and the fumes were
40 bothering me. I checked the left lane for traffic behind me in my rearview mirror and pulled
41 around the truck. I had traveled about 50 yd. (45 m.) in the left lane, when this Mercedes that
42 had been parked in front of Lacis restaurant pulled out suddenly in front of me. I didn't have a
43 chance even to swerve, and I ran into the front, right side of the Mercedes and went flying
44 through the air. The next thing I remember, I woke up in the hospital.

45

1 My brother's motorcycle was totaled in the wreck. He bought it in June of YR-4, and let me
2 ride it, even though I did not have my driver's license yet. EXHIBIT 10 is the photo he sent to
3 our grandmother of his new Honda cycle that he took at the shop when he bought it. I rode the
4 bike whenever he allowed me to. I would say that I was an experienced motorcycle rider, or at
5 least as experienced as you can get in a year or so.

6

7 I've been told that I didn't have on my helmet when I landed after being hit by the car and that
8 they found my helmet on Elizabetes Iela, just up the road from Lacis restaurant. I know I had
9 the helmet on as I was riding down Elizabetes Iela. It was a hot day, and to tell the truth, I
10 would have preferred not to have had it on, but because I was an unlicensed rider, I always
11 wore it. The only thing I can guess is that it flew off when I got hit by the car. Because of the
12 heat, I might not have had the chin strap buckled. Yes, that's my helmet in that picture
13 (EXHIBIT 11).

14

15 I've also been told by the police that the guy in the Mercedes said that I was going about
16 50 mph/80 kph at the time of the accident. That's just not true.

17

18 Q: How fast were you going when you first saw the Mercedes pull out from its parking
19 space?

20

21 A: I couldn't have been going more than 35 mph/56 kph.

22

23 Q: What was the speed limit on Elizabetes Iela in that area?

24

25 A: I'm not sure, but I think it's either 25 or 30 mph/40 or 50 kph.

26

27 Q: Then you were speeding just before the accident?

28

29 A: I wouldn't say I was speeding. Traffic generally moves along Elizabetes Iela slowly,
30 and that's what I was doing, just a little more than usual to pass.

31

32 Elizabetes Iela is a shopping/restaurant area with a number of stores, hotels, other shops,
33 and a number of restaurants. There are also some office buildings in the area. The
34 Hotel Latvia is located nearby. The diagram you showed me looks accurate as to what's
35 located in that area (EXHIBIT 1). Lacis was located between Skolas and Baznicas Iela on
36 Elizabetes, on the east side of Elizabetes. I've eaten there a couple of times with my parents.
37 It had valet parking for its customers, as well as a parking lot out back in a courtyard. There
38 is also parking on Elizabetes Iela in front of the restaurant that's used by people eating at the
39 restaurant as well as people shopping at the stores near there. As I said, I've traveled on
40 Elizabetes a lot. It's not unusual for people to pull out from the parking spaces on the east
41 side of the road. When you ride a motorcycle, you have to be especially careful about people
42 pulling away from curbside parking because they don't seem to notice motorcycles, even
43 though I always rode with my headlight on. It's the law in Latvia.

44

45 I've been told that I was unconscious for about a half-hour from the time of the accident

1 until the time I woke up in 1 Slimnica (Riga Hospital Number 1). I had a real bad headache and
2 a lot of scrapes and bruises, but luckily I didn't have any broken bones. I must have used my
3 hockey instincts to protect myself when I hit the ground. They kept me in the hospital for a few
4 hours for observation. I was told by the doctor that they were concerned about a concussion,
5 even though the x-ray they took did not show any skull fractures.

6

7 That evening, in the hospital, I was visited by a police officer who was investigating the
8 accident. He was the one who told me that the guy in the Mercedes said I was going 50 mph/80
9 kph. I don't know how he could say that. First off, I wasn't going that fast. Second, if he saw
10 me, why did he pull out in front of me? The cop asked me other questions, including why I
11 wasn't wearing my helmet. I told him that I was, just like I told you. I also told him that I
12 always wear a helmet because I wasn't licensed to ride my motorcycle. I remember that he
13 told me to take it easy; that he wasn't going to arrest me for speeding or not wearing a helmet.

14

15 Anyhow, the police officer wrote up a "statement" for me to sign. It obviously wasn't
16 everything I said to him, but I had no reason to think that he would not write down what I
17 said, so I just looked it over real quick, signed it, and gave it back to him. Looking at what
18 you just showed (EXHIBIT 5), that looks like my signature and I recognize my initials
19 where there are some changes in what looks like my handwriting on the statement. It's
20 basically right about what happened and what I told him, but it's not in my words, and as I
21 said, the police officer didn't write down everything I said. He just took some notes and the
22 next day he brought me this paper to sign. The doctor has also given me some pain
23 medication, but I'm not saying that kept me from telling the officer what happened.

24

25 Q: How were you after the accident?

26

27 A: I was sore for a few days, and I had a pretty bad headache for a day or two.

28

29 Q: Any other problems from the accident?

30

31 A: Not until I had my first seizure.

32

33 Q: By the time hockey practice started, did you think you had recovered from the accident?

34

35 A: Yeah, by the time practice started I felt pretty good.

36

37 On September 12th, the week before our first game that year, I had what I've been told was a
38 grand mal seizure. I can't tell you what happened because I don't remember these seizures
39 when I have them. I'm told by my parents that as I was sitting at the dinner table, my eyes
40 rolled back into my head, my mouth foamed and I fell off the chair and started to grunt and
41 roll around. I also lost control of my bowels and bladder. I guess I scared my parents pretty
42 bad, but as I say, I don't remember these types of seizures when I have them.

43

44 The next thing I remember is that I was in the hospital. My family doctor, Dr. Balode,
45 was there with me. She told me that I had a seizure and that she was checking me over to try

1 to figure out what caused it. My first question was whether I would be able to play in the
2 opening hockey game, I didn't even consider what turned out to be true: that I'd never be able
3 to play hockey again.

4

5 Now that you asked, there was something relatively unusual that happened on the day of
6 my first seizure. We were having full-contact drills during practice and Vilhelms Petrovs,
7 our 220-pound defenseman, crushed me against the boards. I never saw him coming and
8 he hit me pretty hard and rung my bell. What I mean by that is that for a couple of seconds I
9 didn't know where I was and I felt a little woozy. Coach had me sit out the rest of practice,
10 just to be sure I didn't hurt myself seriously, but I really didn't think much of getting hit at the
11 time. I had played hockey for seven years, and getting your bell rung is just an occupational
12 hazard of playing. It didn't happen to me often, maybe three or four times, but as I said, it's
13 not really a serious injury. I never got a concussion or anything and never was hospitalized.

14

15 As to other injuries in hockey, I had gotten a lot of bumps and bruises, but I never
16 missed a game due to injury. The only time I missed a game was in the 11th grade when I
17 was suspended for a week of school because I got caught cheating on a quiz in my
18 chemistry class. I only missed one game because my hockey coach said that it was the
19 school's business and not his problem after he called the school principal.

20

21

22 My seizures kept me from ever playing another period of hockey. I was also prevented,
23 until recently, from driving a car. In all, I've had four grand mal seizures. I have also had
24 smaller seizures that they call absence seizures. When I have those, I just sort of zone out for
25 a few minutes and then I can focus again on what's going on. I take medication on a daily
26 basis. I have to take Dilantin every day. If I do, I don't have seizures for the most part. Once I
27 had a seizure when I got the flu, but other than that, they don't happen very frequently. Last
28 month I was allowed to start driving a car because Dr. Balode was convinced that it was safe
29 as long as I kept up with my medication and only drove when I had to. The medication makes
30 me feel a little dopey, but other than that I feel okay. I'm not allowed to engage in any contact
31 sports or any activity where it's likely I can hit my head. For example, I'm not allowed to ride
32 a motorcycle or go water skiing. Dr. Balode, who has been my only doctor since I was a kid,
33 set these limits and I've done what she told me to do.

34

35 I wasn't the best of students in secondary school. I guess I put too much emphasis on hockey,
36 but it was my first love. Although I missed the hockey season in my 12th grade year, I still
37 graduated on time from secondary school. At first, I was not admitted to the University of
38 Latvia—luckily, because my father is a full Professor at the University, I was admitted to the
39 University when one of the enrolled students failed to show up.

40

41 I guess I'll always wonder how my life would have been without this injury, but I don't
42 think I can dwell on that. I've tried to make the most of my life since then, but I still get the
43 urge to get out on the ice every time hockey season comes around, and that can be depressing.
44 Like my father says, at least I never got my knees banged up, so I won't be hobbling around
45 when I get to be his age.

1 I have given full and complete answers to all your questions. If I remember anything else,
2 I'll let my lawyer know so that he can inform you.

3
4

5 I have read the foregoing and it is a true and accurate transcription of my deposition
6 given on December 10, YR-2 in the offices of defendant's counsel.

7
8
9

10 _____
11 JANIS FOGELS

12
13

14 Subscribed and sworn before me this 12th day of January, YR-I

15
16
17

18 _____
18 EDUARDS GALEJS

19 Notary

20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

1 **DEPOSITION OF VILHELMS BRIEDES**

2

3 My name is Vilhelms Briedes. I am fourteen years old and live with my parents at Allenta Iela
4 # 4, Apt # 7. I am in the 8th grade at the new Primary School.

5

6

7 On July 20th of YR-3 I saw the wreck where Janis Fogels got hurt. Janis was the star
8 center on the Riga 2000 before he got creamed in this accident by that guy in the Mercedes.

9 I was a big fan of his. My dad took me to all of the games, and in

10 YR-4 I met Janis after one of the home games and he gave me an autograph. I also got the
11 autograph of Janis' dad on that same day. Mr. Fogels was a pro hockey player himself. I

12 don't remember him, but my dad does.

13

14 I think I still have Janis' autograph with my autograph collection. I've gotten the
15 autographs of a lot of hockey players over the years by going to games. I thought that Janis'
16 autograph was going to be a good one because he was a great hockey player who was
17 probably going to make it to the pros like his dad did.

18

19 On the day that Janis got hurt, I was riding my bike home on the sidewalk on Elizabetes Iela,
20 across from the park, between Skolas Iela and Baznicas Ielas. I had just bought a CD at the
21 music shop on Elizabetes and was going home to listen to it. Our apartment is three blocks
22 north of Elizabetes Iela and two blocks over from where the accident happened. I had just
23 gotten to the intersection of Elizabetes Iela and Baznicas when I saw a motorcycle coming
24 toward me on Elizabetes in the lane closest to the sidewalk I was on. The diagram you have
25 showed me looks like what Elizabetes Iela where the accident happened (EXHIBIT 1).

26

27 I had stopped to make sure it was safe to cross Baznicas when I saw the motorcycle. I
28 realized that the guy on the bike was Janis Fogels, so I waved to him. He waved back
29 and then pulled into the left lane of Elizabetes to go around a bus that was a little bit ahead
30 of him.

31

32 I watched as he rode down the road, when this Mercedes just pulled out in front of him
33 from being parked on the east side of Elizabetes, in front of Lacis restaurant. Janis never had
34 a chance to get out of the way, even though he wasn't going very fast, and ran right into the
35 side of the Mercedes and went flying through the air. I couldn't tell how fast Janis was going,
36 but it wasn't very fast, about normal for that street, which is always busy. The next thing I
37 knew he was lying real still in the road. I ran up to see what happened, but I really couldn't
38 see much. I stayed on the sidewalk of Elizabetes. There were people standing around Janis,
39 and pretty soon a policeman and an ambulance came and they took Janis away. As I started to
40 walk back to where I had left my bike I saw Janis' helmet on the side of the road. It was near
41 the curb of Elizabetes about halfway between where the guy hit Janis and where Janis landed.
42 It must have gotten knocked off when that guy hit him with his car.

43

44

45

1 I picked up the helmet and made my way across the road to where the policeman was.
2 The helmet was scraped. I gave it to the police officer so he could give it to Janis. I was real
3 scared by what happened to Janis, but after the policeman told me that Janis would be all
4 right, I told him what happened the best I could. I was still upset though. That photo
5 (EXHIBIT 11) shows Janis' helmet that I picked up from the road after the accident.

6

7 As it turned out Janis wasn't all right. He never played hockey again even though he
8 started to practice. I know because I went to watch Riga 2000 practice one day after school and
9 he was there. Then, I heard from the kids at school that Janis was having fits and that he
10 couldn't play hockey anymore.

11

12 The next thing I heard about this accident was when a man who said he was with the
13 insurance company for the Mercedes came to see me at my house. He told me that he had
14 gotten my name from the police and asked if he could talk to me and get a written statement
15 from me. I told him everything I told you. He tried to get me to say that I wasn't sure about
16 whether Janis had on his helmet, but I told him, like I told you, that I am positive that he was
17 wearing it. When I wouldn't change what I told him, he left without ever getting me to sign a
18 statement.

19

20 I have also talked to you and Janis' lawyer about what happened, when you came to my
21 house to talk to me.

22

23 I have told you everything I can remember about what happened. If I remember anything
24 else, I'll have my parents call.

25

26 I have read the foregoing and it is a true and accurate transcription of my deposition
27 given on December 18, YR-2 in the offices of the defendant's lawyer.

28

29

30

31

32 _____
VILHELMS BRIEDES

33

34 Subscribed and sworn before me this 18th day of January, YR-1.

35

36

37

38 _____
EDUARDS GALEJS

39 Notary

40

41

42

43

44

45

1 **DEPOSITION OF ANDRIS PALIPS**

2

3 My name is Andris Palips and I live at Mezaparks in Riga. I am fifty-five years old
4 and work as a manager for Americraft Industries, a manufacturer of cereal products.
5 I'm married. My wife Klara and I have three children; Ervins who is sixteen, Madara who is
6 thirteen, and Ludvigs who is eight.

7

8 I have been with Americraft since I graduated from Brown University in the U.S.A. in YR-33
9 with a degree in business administration. I started with the company as a salesperson and have
10 worked my way up the ladder to where I am now, the head the Baltic sales force that
11 numbers twenty people. My job is to manage and supervise the sales staff, as well as
12 servicing some of our best accounts in Latvia and the surrounding Baltic states. I moved to
13 Latvia from Connecticut, U.S.A. in 1991 when Americraft decided to build a factory here.
14 One of our best providers is Maxima SIA in Riga. They are an active company, always
15 looking to open up new markets, and when they venture into a new market, as they have, over
16 the past fifteen years, they come to us for ideas for promotion and design of cereal products.

17

18

19 The president of Maxima is Pavils Selgas. He is a very busy man and it is difficult to get into
20 see him, so I must rely on the good graces of his administrative assistant Veronika Ranka to
21 squeeze me in whenever I need to speak to him. Ms. Ranka is the keeper of the gate, so to
22 speak, and she has been very kind over the past few years since she's been Selgas' assistant,
23 in getting me appointments when I need them.

24

25 In my business, administrative assistants and secretaries are very important in making my
26 job easier. You can't get anywhere without having a working relationship with them. As a
27 result, I take the time to cultivate good relations with these people. One of the ways I show
28 my appreciation is by taking them out to lunch or dinner. That way, they know I appreciate
29 their assistance, and hopefully, will continue to be helpful in getting access to their bosses.

30

31 On July 20th of YR-3, the day of the accident we're here to talk about today, I took Ms.
32 Ranka to lunch at Lacis restaurant in Riga. I had been in to see Pavils Selgas that morning
33 and so I asked Ms. Ranka if I could take her to lunch. I can't say that this was the first time
34 I had asked her to lunch or dinner, but it was the first time that she accepted. As I've said,
35 such invitations are part of my business. Although Ms. Ranka is an attractive woman, my
36 only interest in her is related to my business and her control of access to Pavils Selgas. I am a
37 happily married man and had no interest in a relationship with anyone other than my wife.
38 I don't know how Ms. Ranka could have gotten any other impression. Sure, I was friendly
39 with her, but that means nothing more than that. As I said, she's the one who controls my
40 seeing her boss.

41

42 I met Ms. Ranka at Lacis, which is located on the east side of Elizabetes Iela, between
43 Skolas Iela and Baznicas Ielas, at approximately 12:30 p.m. Elizabetes Iela is a two lane, one-
44 way road that travels south. The easternmost lane, in front of Lacis, is used for parking.

1 Elizabetes has a number of retail businesses in that area, and I believe there might be an office
2 building or two within a couple of blocks of Lacis. The diagram that you showed me looks to
3 be accurate of what that area looks like (EXHIBIT 1).

4

5 I often eat at Lacis—about three times a week. It is a good place to take customers
6 because it's centrally located and has a varied and good menu. Lacis has valet parking; you just
7 stop in front of the restaurant and one of the carhops takes your car back to a parking lot in a
8 courtyard somewhere nearby. The fellow who usually takes my car is Georgs. I don't know his
9 last name. I'm a regular, it's not unusual for Georgs to have my car waiting for me in one of
10 the spaces right in front of Lacis. I don't know if he does this for other regulars, but he does
11 for me. I guess I'm a decent tipper; I always give him two Lats when I leave off the car and
12 another two Lats when I pick it up.

13

14As I said, I met Ms. Ranka at the restaurant. I had offered to drive her there, but she
15 said that she had some errands to do in that part of town, so she drove her own car. We had a
16 pleasant lunch. I don't remember what she ate, but I had my usual, soup, rupertmaize, and then
17 coffee. I also had an Aldaris beer with my meal. That, too, is my usual lunch beverage. I
18 do not consider myself a heavy drinker, but I do enjoy a vodka before dinner each evening.
19 Yes, I sometimes also have beer with dinner. No, I never have vodka at lunch. I don't
20 believe in drinking hard liquor when I'm working. The beer at lunch that day certainly had no
21 effect on me. I was perfectly sober. I don't remember if Veronika had any alcohol at lunch.

22

23 The lunch lasted until about 2:00 p.m. I paid the check and thanked Ms. Ranka for her
24 company and her kindness in helping me to see her boss, and we said our goodbyes at the
25 restaurant door. I'm sure I offered her a ride back to the Maxima business office, but she
26 reminded me that she had her car and that it was parked on Elizabetes Iela, a short distance
27 east of the restaurant. As usual, my car was parked outside the restaurant. There was a car
28 parked in front and behind my car. I got my keys from Georgs, tipped him, and got in my car.

29

30 I got into my car, a YR-4 Mercedes four-door sedan, and started the engine. Because it was
31 a warm day, the air conditioning came on automatically. My radio was also on.

32

33 Q: Tell me everything you did after you started your car.

34

35 A: What I would usually do. I turned on my lights, put my seatbelt on, backed up enough so
36 that I could pull into the middle lane, checked my mirrors, and then pulled out. Just as I
37 eased into the left lane, I caught a flash out of the corner of my eye of something very fast,
38 and then, boom! it rammed into the front, right side of my car.

39

40 Q: That was Janis Fogels on his motorcycle?

41

42 A: Yes.

43

44

45

1 He went flying off the cycle and landed about twenty feet (six meters) down the road. I
2 stopped my car and ran up to him where he was lying on the pavement. He was
3 unconscious on the pavement. He did not have on his helmet, and I don't think he had it
4 on when he hit my car. It all happened so fast, I can't be sure, but I don't think he had it
5 on.

6

7 Q: Did you actually see the cycle before impact?

8

9 A: Only like a whoosh out of the corner of my eye. But from how fast everything
10 happened, he must have been going very fast.

11

12 Q: But you couldn't estimate the precise speed?

13

14 A: I saw a blur, like a whoosh. My best guess is that he was going at least 50 mph/80 kph .

15

16 Q: But that's just a guess?

17

18 A: I didn't have a radar gun with me, if that's what you're asking.

19

20 Q: So you don't know his speed for certain?

21

22 A: For absolute certain, no.

23

24 No, I didn't hear him approach me either, I guess because I had on the air conditioner on
25 high-speed fan and the radio was on. He just came out of nowhere.

26

27 By the time I got to him, I know now he was Janis Fogels, the plaintiff, Ms. Ranka
28 was already there. I asked her something like, where did he come from, but she didn't answer.
29 I really did not see the motorcycle until right as it ran into my car. I then went back to my car
30 and called for an ambulance and the police on my car phone.

31

32 The police officer and ambulance arrived almost immediately. After the officer helped to
33 get Fogels into the ambulance, the officer talked to Ms. Ranka, Georgs, and myself, and
34 maybe some other people who saw the accident. I told the officer what happened, as did Ms.
35 Ranka and Georgs. I think we all estimated that the boy was traveling about 50 mph/80
36 kph. I believe the speed limit on Elizabetes Iela is 30 mph/50 kph, although I'll have to admit
37 traffic along there travels at closer to 20 mph or less (35 kph). No matter, he was certainly
38 going much faster than that.

39

40 After we talked to the officer, he asked if we could give him signed statements. I told him
41 that I had a 2:30 appointment I was already late for. I had given myself just enough time to
42 leave the restaurant at 2:00 p.m. and get there comfortably. The officer let me go and I
43 promised to go into the police department later in the day to give a statement. As it turned out,
44 because I was shaken up by this accident, I just went home and went out to dinner with my
45 wife that night. Yes, I called my lawyer and he told me not to talk to anyone about the

1 accident and not to sign anything. Not that it makes any difference. I had already told the
2 officer exactly what I told you today about how the accident happened. I also didn't make my
3 appointment because my client couldn't wait until I got to his plant.

4
5 I was definitely on a business lunch with Ms. Ranka on July 20th. I'm sure I put in for
6 the lunch on my expense account. The document you have showed me (EXHIBIT 6) is a
7 portion of my expense account report for the month of July, YR-3 and yes, it shows that I put
8 in for and was paid for that lunch. I have to put in these reports every month and then I am
9 reimbursed for my expenses. They are sent back to me, and I keep them in my files. That's
10 company policy. I see the expense that is denied because of the bar bill. I guess my client
11 wanted a couple of extra drinks and the company won't pay for that as a matter of policy. If
12 they decline to pay a client's bar bill, I'll just pick it up myself.

13
14 I am very sorry that this young man was injured, but it was not my fault. I'm a very
15 careful driver, and anyway, he came out of nowhere and was going so fast when he hit me, so
16 there was nothing I could do to avoid the accident.

17
18 I have given full and complete answers to all of your questions. If I remember anything
19 further about what you've asked, I'll tell my lawyer so that she can tell you.

20
21 I have read the foregoing and it is a true and accurate transcription of my deposition
22 given on December 12, YR-2 in my office at Americraft Industries in Riga.

23

24

25

26 _____
26 ANDRIS PALIPS

27

28 Subscribed and sworn before me the 15th day of January, YR-1.

29

30

31

32 _____
32 EDUARDS GALEJS

33 Notary

34

35

36

37

38

39

40

41

42

43

44

45

1 **DEPOSITION OF VERONIKA RANKA**

2

3 My name is Veronika Ranka. I live in Teika in Riga. I am twenty-eight years old and work as
4 the administrative and personal assistant to the president of Maxima SIA, Pavils Selgas.

5 I am a YR-7 graduate of the Riga School of Business and Economics, where I received a
6 degree in business administration. I have worked in my current position since graduation.

7

8

9 My job at Maxima is to advise Mr. Selgas on the full range of business decisions he has to
10 make. I am especially involved in the decisions made concerning our entry into new
11 markets. For example, I was instrumental in our YR-3 decision to open new stores in ten
12 Latvian cities. Those new markets now represent 40 percent of our business. I also serve as
13 Mr. Selgas' scheduler and arrange for his meetings. In that way his time can be used most
14 efficiently. This is important because our executive staff at Maxima is lean. Other than
15 Mr. Selgas and myself, there are only four other managers, three for operations and one for
16 marketing.

17

18 I know a man by the name of Andris Palips. He is the representative for Americraft
19 Industries. Americraft is a company that manufactures a full range of cereal products.
20 We have done business with him on numerous occasions. His company has assisted us in
21 marketing over the years and we have purchased a fair amount of their products as well.
22 We have been very satisfied with our business relationship with Americraft. They developed
23 a market for cereals in Latvia which did not exist before.

24

25 Although Mr. Palips is a perfectly good representative, he fancies himself a ladies'
26 man, and until I straightened him out, he used to flirt with me whenever he came to our
27 offices. He frequently asked me out to lunch and dinner, even though he wore a
28 wedding ring. I always put him off in a nice way, but I was always very clear. He didn't seem
29 to get the point so in July of YR-3, I believe it was the 20th, I agreed to go to lunch with him,
30 just to set him straight. To make sure that he did not get the wrong idea, I drove my own car
31 rather than accepting his offer to drive.

32

33 We met for lunch at Lacis, which is located on Elizabetes Iela between Skolas Iela and
34 Baznicas Iela in Riga. Elizabetes Iela in that part of town is a retail and hotel area, although
35 there are office buildings near there. The diagram you've showed me looks to be accurate to
36 that area (EXHIBIT 1).

37

38

39

40 I parked my car on Elizabetes Iela just before Baznicas Iela, about half a block past
41 Lacis. I had never been there before that day, so I did not realize that they had valet
42 parking. Elizabetes is a two lane, one-way road going south. There is parking beside the
43 buildings on one side of the street. I believe that the speed limit there is the same as every
44 other street in the city center, 31 mph/50 kph.

45

1 I met Palips at the restaurant at approximately 12:30 p.m. I'll have to admit that he was a
2 gentleman the entire time. Other than suggesting that we have dinner together sometime, he
3 made no overtures towards me. I very clearly told him that I don't have dinner with married
4 men and that was the end of it. He has asked me to lunch since then, but the flirting has
5 stopped, so I've just turned him down politely and let it go at that.

6

7 Lunch was pleasant. I don't recall what I ate, but I do remember that the food was good. I
8 had a Limonade to drink. I know that only because that's all I ever drink for lunch. Palips had
9 two vodkas with lunch. I guess he's from a different generation. The drinks didn't seem to
10 bother him, though. He was a little loose tongued; that is, really talkative, but not appreciably
11 more so than he is when he visits at Maxima.

12

13 Lunch lasted until about 2:00 p.m. We left the restaurant and Palips pointed to his car
14 that was parked in front of the restaurant and offered me a ride back to the office. I reminded
15 him that I had driven and pointed down the street to where my car was parked. We said our
16 goodbyes and I walked toward my car. Just as I reached my car and was putting my key in the
17 door on the driver's side, I heard the roar of a motorcycle coming from farther up Elizabetes. I
18 looked up to hear a crash and saw the rider of the bike flying through the air in my direction. I
19 did not see the bike before impact, but it obviously had run into the front, right side of
20 Palips' Mercedes.

21

22 I can't say whether the rider had on a helmet as he was flying through the air because it
23 all happened so fast, but he certainly didn't have one on when I ran over to where he landed in
24 the road. He landed about twenty feet down Elizabetes from where he hit Palips' car. I got
25 there first, and Palips got there within a few seconds. The bike rider, who looked to be a
26 teenager, was unconscious. As Palips got there, he said, "Where the hell did he come from?"
27 He didn't wait for my reply, but walked back to his car and used his mobile to call for help.

28

29 A police officer and ambulance arrived within a few minutes. The teenager was taken
30 away. The officer asked if I would give a statement. Even though I was in a hurry, I waited to
31 talk to him. He also talked with the doorman from Lacis and Palips at the same time. A
32 young boy also approached him and gave him a motorcycle helmet the boy said belonged to
33 Janis. The boy was quite upset and the officer talked with him as well. I told the officer
34 just what I've told you today. He asked how fast we thought the bike was going before the
35 accident. I don't know who said what first, but the three of us agreed that it must have been
36 quite fast, about 50 mph/80 kph. I told the officer that I had a lot of experience with
37 motorcycles, given that both my brother and I raced them when we were in our late teens.
38 Even though I didn't see the bike before impact, based on the sound, I told him that I figured
39 the bike must have been going 50 mph/80 kph. I have no reason to change that estimate today.

40

41 I now know that the teenager who was hurt was Janis Fogels. I'm a pretty avid sports
42 fan and recognize his name as a star junior hockey player. I have also heard that
43 because of this accident, he's never been able to play again. That's too bad, because from
44 what I've heard and read, he was a special hockey player with a bright future.

45

1 Mr. Palips is still the representative who handles our account with Americraft. We do
2 continue to deal with him because the company continues to purchase our product. He also
3 pays attention to our account, and has done a good job in fulfilling some special requirements
4 in terms of product specifications. Of course I've seen him since the accident, but I can't say
5 we've ever really discussed the accident. We might have, but I just don't remember.

6

7 I have given full and complete answers to your questions. If I think of anything further I'll
8 contact you, but I think that's unlikely.

9

10 I have read the foregoing and it is a true and accurate transcript of my deposition given
11 on December 17, YR-2 in the office of plaintiff's counsel.

12

13

14

15 _____
15 VERONIKA RANKA

16

17 Subscribed and sworn before me this 17th day of January, YR-1.

18

19

20

21 _____
21 EDUARDS GALEJS

22 Notary

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

1 DEPOSITION OF GEORGS MARKUS

2

3 My name is Georgs Markus. I am twenty-five years old. I live in the Teika section of Riga.
4 I am a night school student at Riga Technical School where I am studying computer science.
5 I also work as a valet at Lacis restaurant, which is now located on Antonijas Iela not far from
6 the former location. Lacis used to be on Elizabetes Iela by Baznicas, but that's now some fancy
7 clothing store. I work the lunch shift from 11:30-2:30 every day except Sunday, and the dinner
8 shift on Fridays and Saturdays when I don't have any classes. This leaves me plenty of time to
9 study. I've been working there for about five years and have always worked the same shifts.
10 The hourly pay is low, but the tips are good, especially on Friday and Saturday nights when
11 the patrons get a little liquor in them.

12

13

14 I graduated from secondary school in YR-7 and I was drafted in the Army. I didn't
15 know what I wanted to do with my life. The Army was okay, but I didn't want to make it my
16 career, so I took my discharge in YR-5 as scheduled. Despite all their promises, I never got
17 the kind of high-tech training they promised, so I enrolled in Riga Tech when I got out. I also
18 started to work at Lacis.

19

20

21

22 Andris Palips has been one of my regulars at Lacis ever since I started working there.
23 He has lunch there a couple times a week with business associates and sometimes comes in
24 on the weekends. Most times he has a guest when he comes in for lunch, either some
25 business types or a secretary type. He usually shows up around 12:30 and has a long lunch
26 until about 2:00 or 2:30. He seems to be a nice guy, always making jokes, and he's a good
27 tipper. He gives me two Lats when I park his car and two again when he picks it up. After I
28 got to know his usual schedule, I started to bring his car around and park it right in front when
29 it was about the time for him to come out of the restaurant. He seemed to like that, so that's
30 what I always do.

31

32 I was working on July 20th of YR-3 when that kid ran into the side of Mr. Palips' car
33 and nearly killed himself. There was nothing that Mr. Palips could do. The kid came speeding
34 around that bus and just slammed into Mr. Palips' car.

35

36 At the time of the accident I was standing right in front of Lacis, so I got a good view of
37 everything that happened. Lacis is located on the east side of Elizabetes Iela. Elizabetes is a
38 two-lane street that goes one-way toward the Hotel Latvia. There is another lane in front of
39 Lacis used for parking. That's also where the carhops take the cars from the patrons to park in
40 the lot behind the restaurant. When the accident happened, I had just given Mr. Palips his car
41 keys and was watching him and the lady he was with as they walked to their cars.

42

43

44 Mr. Palips had gotten to the restaurant at his usual time, about 12:15 p.m. He told me he
45 had a date with a "real looker, with an incredible body" and asked me whether I had seen a

1 good looking woman go into the restaurant alone. I had not, but several minutes later, a woman
2 walked up to the entrance and into the restaurant. As it turned out, she was the woman who
3 came out of the restaurant with Mr. Palips at about 2:00 p.m. EXHIBIT 9 is a photograph of
4 the woman I saw with Mr. Palips. I don't recall her looks quite the way he described her.

5

6 When Mr. Palips came out of the restaurant, he saw his car parked out in front and gave
7 me a big smile and a wink. He was his usual self, but if I had to guess, I'd say that he looked
8 like he had a couple of drinks at lunch. He wasn't drunk or anything, but he seemed a little
9 louder than usual. In addition, when he gave me his usual tip, he handed me five more Lats
10 so he must have been in a really good mood. EXHIBIT 13A shows the entrance to what was
11 then Lacis. The awning is the same except that it now says Armani. Mr. Palips' car was
12 parked right in front of the awnings on Elizabetes Iela. EXHIBITS 13B and 13C also show
13 where Lacis used to be. Anyhow, I watched him as he waved goodbye to his lady friend and
14 got into his car. She walked down the road, and I saw her walk between two cars to get to
15 the driver's side of a car parked about half of a block down Elizabetes Iela toward the Hotel
16 Latvia.

17

18 Mr. Palips got into his car, started it, turned the lights on, put on his seat belt, checked
19 his mirrors, and eased out into the nearest lane of Elizabetes. He had to go slowly because
20 there was a car parked both in front and behind him. It was then that the motorcycle came
21 swerving around a bus that was in the far lane, into the left lane. I don't know whether I first
22 heard the roar of his bike or saw him, it all happened so fast. Neither the kid, nor Mr. Palips
23 had a chance. The kid was going so fast that he couldn't swerve, and I doubt that Mr. Palips
24 ever saw him, so that he couldn't have gotten out of the way. The kid hit the front, right side
25 of Mr. Palips' Mercedes and went flying through the air.

26

27 Based on what I saw, I'd have to say that the kid was going much faster than the traffic, about
28 50 mph/80 kph. I can't be absolutely certain, but I don't think he was even wearing a helmet. I
29 don't remember seeing one on him, and he didn't have one on when he landed on the road.

30

31 Both Mr. Palips and his lady friend ran to try to help the kid. Mr. Palips came running
32 back to his car and said that he was going to call from his mobile phone for the police and an
33 ambulance; that the kid was knocked out. To be honest, it's a miracle he didn't kill himself,
34 considering how fast he was going.

35

36 Within a couple of minutes, a policeman and an ambulance showed up. They loaded the kid
37 into the ambulance and it took off. The cop stayed behind and took statements from me, Mr.
38 Palips, his lady friend and a little kid who came up and told the officer that he'd seen the
39 accident and handed him a motorcycle helmet. I told the police what I told you today. There
40 wasn't much question about what happened. As we talked to the police, it was clear to me that
41 Mr. Palips, his friend, and I described what happened about the same way. The officer asked
42 me if I'd mind signing a statement about what I saw and I agreed to come into the police
43 station the next morning to sign a statement, which I did. The piece of paper you just showed
44 me is the statement I signed (EXHIBIT 4).

45

1 I didn't see Mr. Palips for a week or so. The next time I saw him, he was driving a new
2 Mercedes. He made some kind of joke about it being a hard way to get a new car or something
3 like that. I asked him if he was all right and he said he was. That's the last time I had any
4 conversation with anyone until about two or three months after the accident when some guy
5 from Mr. Palips' insurance company came out to talk to me about what happened. He wanted
6 to know all about the accident, but seemed especially concerned about whether the kid had on
7 his helmet. He said the kid hurt his head and was claiming that it had caused him to have a
8 serious medical problem. I told him what I told you. I can't be sure whether he had the helmet
9 on or not, but I don't remember seeing the helmet on his head. That's the last time I had any
10 conversation with anyone about this accident before today. Yes, I did talk with Mr. Palips'
11 attorney about the accident, but that was this morning before you came and started
12 questioning me.

13

14 I have given full and complete answers to all of your questions. If I remember anything
15 more, I'll make changes on the transcript of this deposition when I get to read it.

16

17 I have read the foregoing and it is a true and accurate transcription of my deposition
18 given on August 17, YR-1 in the offices of defendant's counsel.

19

20

21

22 _____
GEORGS MARKUS

23

24 Subscribed and sworn before me the 12th day of November, YR-1

25

26

27 _____
EDUARDS GALEJS

29 Notary

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

1 DEPOSITION OF TOMS HARTMANS

2

3 My name is Toms Hartmans. I am the hockey coach at Riga 2000. I have coached for FHC
4 Liepājas Metalurgs and HC ASK/Ogre. Before that, I was an assistant coach in a junior
5 hockey team. Before that, I was a Latvian National Hockey player for three years.

6

7

8 I coached Janis Fogels when he played for Riga 2000. I have never seen a better center
9 anywhere. Janis had great balance and agility, great peripheral vision, and could skate and
10 control as well as any kid I have seen. He could make shots on goal with accuracy.

11 He is extremely intelligent and a hard worker.

12

13

14 Janis started for the Riga 2000 during his 11th grade year in school. We were 15-2-21 in that
15 stretch. (EXHIBIT 8 is a picture of Janis in the Riga-Zemgale game in YR-4). He was second
16 team All-Star in his first year, and I am sure he would have been first team All-Star the next.
17 Without him the next year, we only had a .500 record.

18

19 After Janis' first year, I was contacted by the Latvian National Hockey Team staff. I told
20 them that I thought he was a "can't miss" as a team prospect. There is no doubt in my mind
21 that Janis could have played at the Nationals as a starter. Had he played during his 12th grade
22 year, he would have gotten a four-year, athletic scholarship to the school of his choice in the
23 United States. That includes tuition, room and board. Also, it is not unusual for college
24 athletes to obtain summer employment from program boosters.

25

26

27 Beyond college and the National Team, it's hard to say. Janis certainly had the physical skills
28 and mental discipline to make it in the NHL, but the competition would have been very tough.
29 And the average NHL starter makes over three million dollars a year.

30

31 EXHIBIT 7 is the Latvian National Hockey Team's evaluation memo for the year that
32 would have been Janis' 12th grade year. This is a confidential record similar to the record that
33 every major college hockey program keeps for every position in the States. I have obtained
34 permission to make it public because so much time has gone by that it can't matter any longer
35 to the National Team staff.

36

37 Yes, I understand that Janis wants to be a hockey coach. I have to say that the chances of
38 him getting a good job, even at the lowest junior hockey level, aren't great. It's a pretty closed
39 fraternity and it's hard to get in unless you have played hockey. It's not impossible, but it's
40 hard. Yes, I agree that Janis is smart enough to be a good coach. I am not sure if he is dumb
41 enough to want the life, however. It's an incredibly high stress job that doesn't pay all that
42 much, unless you are the head coach for a major national team.

43

44 There is a very high turnover rate among coaches. Yes, there's also a high turnover rate
45 among NHL players. But some guys stick around as back-ups for ten years or more. Yes,

1 all hockey players are vulnerable to career-ending injuries. At a minimum, because Janis
2 could no longer play hockey, he lost a full ride athletic scholarship to the college of his
3 choice in the States. He lost his chance to be a star on the Latvian National Team. He lost
4 whatever chance he had to play in the NHL. Although he may still get into coaching, he
5 certainly has less chance than he would have if he had played at a major program or in the
6 NHL.

7

8 I have given full and complete answers to all of your questions. I will read my deposition
9 for accuracy when it is transcribed.

10

11

12 I have read the foregoing and it is a true and accurate transcription of my deposition given on
13 December 3, YR-2 in the offices of the plaintiff's attorney.

14

15

16

17 TOMS HARTMANS

18

19 Subscribed and sworn before me this 2nd day of February, YR-1

20

21

22

23 EDUARDS GALEJS

24 Notary

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

46

1 **DEPOSITION OF PAULS MINKINS**

2

3 My name is Pauls Minkins. I live in Mezaparks in Riga in the summer and in Florida in the
4 winter months. I attended the University of Latvia. I played junior hockey and eventually
5 was the goalie for the Latvian National Hockey Team in 1998. I was a first-round draft pick of
6 the Colorado Avalanche and played in the NHL for four years.

7

8 Coach Hartmans and I are friends. Since I live in Riga part of the year, he asked me to
9 personally evaluate players for talent. Two of the players I pointed out play in the NHL today.

10

11

12 Coach Hartmans asked me to see if Janis Fogels is the type of hockey player who could make
13 it on the Latvian National Hockey Team. Janis started for Riga 2000 his 11th grade year and
14 had great promise and instincts as a player. In my opinion, his strength was average at best
15 and he was not as accurate as some of the players I saw him compete against. He was a little
16 bit slower than we like our offensive players to be. Wayne Gretzky wasn't the fastest player
17 in the world, so I'm not saying that he couldn't make it, but we would like to more mobility
18 than this kid had.

19

20

21 Honestly speaking, after watching Janis play a few games, I didn't think that he was a great
22 college hockey prospect nor was he likely to have made the '06 National Team. I realize that
23 he had an overall A- score on his hockey rating, but to play at the major level in my view you
24 need to have A+.

25

26 I understand that Janis received several letters from major college hockey teams in the States.
27 You have to understand that in the recruiting business, letters like these get sent to kids from
28 all over. In any given year, a good hockey program like North Dakota or Michigan may send
29 25 letters like this to good prospects around the country and in Northern Europe. However,
30 it's rare that they recruit more than one player per position. His prospects for making the
31 Latvian National Hockey Team were poor at best.

32

33 It is impossible to predict that a secondary school player will end up being at the pro level
34 Many Latvian National Hockey Team All-Stars don't have a chance of making it in the NHL.

35

36 I have read the foregoing and it is true and accurate transcript of my deposition given on
37 May 4, YR-1.

38

39

40 _____
40 PAULS MINKINS

41

42 Subscribed and sworn before this 15th day of May, YR-1.

43

44

45 _____
45 EDUARDS GALEJS

46 Notary

MEMORANDUM

TO: Plaintiff's Attorney

FROM: Legal Assistant

RE: Dr. D. V. Reinholds

At your request, I have checked with several attorneys about Dr. D. V. Reinholds.

Dr. Reinholds is well known to the Latvian bar. He has testified in other cases that at least twenty percent of his practice is devoted to performing examinations of claimants on behalf of insurance companies and employers. He frequently testifies about the findings of his examinations, and estimates that he testifies (by deposition or trial) at least twice a week.

He charges \$700 (402 LVL) for a neurological examination and \$300 (173 LVL) for a report. He charges \$500 (288 LVL) per hour for deposition or trial testimony, with a minimum of three hours per deposition and four hours per trial.

None of the lawyers I talked to remember Dr. Reinholds ever having come to a medical opinion that was not totally supportive of the defense position. The common wisdom is that Dr. Reinholds' initials stand for "Defense Verdict."

SAMPLE COURT FORMS AND IMPEACHMENT PROBLEMS

AMERICAN JURY INSTRUCTIONS

The law you are to apply to this case is contained in these instructions, and it is your duty to follow them. You must consider them as a whole, and not pick out one or some instructions and disregard others.

Sympathy or prejudice must not influence your decision.

I have not meant to indicate any opinion as to the facts by my rulings, conduct, or remarks during the trial. But if you think I have, you should disregard it because you are the sole judges of the facts.

You shall consider all of the evidence bearing on any fact without regard to which party produced the evidence.

A fact may be proven directly by a witness, or indirectly by other facts or circumstances from which it reasonably follows according to the common experience of mankind. This is called circumstantial evidence, and it should be considered by you in the same manner as direct evidence.

In determining which witnesses you will believe and what weight you will give to their testimony, you may taken into account each witness's ability and opportunity to observe, his or her memory, manner while testifying, and any interest, bias, or prejudice he or she may have.

I shall now give you the definitions of some important legal terms, which I shall use later.

When I use the term "negligence" with respect to the defendant's conduct, I mean the failure to do something that a reasonably careful person would do, or the doing of something that a reasonably careful person would not do under the circumstances that you find existed in this case.

When I use the words "ordinary care," I mean the care a reasonably careful person would use under the circumstances that you find existed in this case.

It was the duty of the plaintiff, in connection with the accident, which is the subject of this case, to use ordinary care for his own safety.

It was the duty of the defendant in connection with the accident, which is the subject of this case, to use ordinary care for the safety of the plaintiff.

When I use the terms "negligence" or "contributory negligence" with respect to the plaintiff's conduct, I mean the plaintiff's failure to use ordinary care for his own safety, which proximately contributed to his injury.

When I use the words "proximate cause," I mean, first, that there must have been a connection between the conduct of the defendant which plaintiff claims was negligent and the

injury complained of by the plaintiff, and second, that the occurrence which is claimed to have produced that injury, was a natural or foreseeable result of such conduct of the defendant.

When I use the words "proximately contributed" I mean first, that there must have been a connection between that conduct of the plaintiff which defendant claims was negligent and the injury of which plaintiff complains, and second, that the occurrence which is claimed to have produced that injury was a natural or foreseeable result of such conduct of the plaintiff.

There may be more than one proximate cause. To be a proximate cause, the claimed negligence of the defendant need not be the only cause nor the last cause. A cause may be proximate although it and another cause act at the same time or in combination to produce the occurrence.

I shall now explain to you the burden of proof that the law places on the parties to establish their respective claims. When I say that a party has the burden of proof or use the expression "if you find" or "if you decide," I mean that the evidence must satisfy you that the proposition on which that party has the burden of proof has been established by evidence that outweighs the evidence against it. You must consider all the evidence, regardless of which party produced it.

The plaintiff has the burden of proof on each of the following propositions:

- A. That the plaintiff suffered an injury;
- B. That the defendant was negligent in one or more of the ways claimed by the plaintiff, and
- C. That the negligence of the defendant was a proximate cause of the plaintiff's injury.

The defendant has the burden of proof on his claim that the plaintiff was negligent in one or more of the ways claimed by the defendant, and that such negligence was a proximate contributing cause of plaintiff's injury.

The verdict will be for the plaintiff if he was injured and if the defendant was negligent, and the defendant's negligence was a proximate cause of plaintiff's injury.

The verdict will be for the defendant if plaintiff was not injured or if the defendant was not negligent, or if he was negligent, his negligence was not a proximate cause of plaintiff's injury.

If you find that each party was negligent and that the negligence of each party was proximate cause of the plaintiff's injury, then you must determine the degree of such negligence, expressed as a percentage, attributable to the plaintiff. Negligence on the part of the plaintiff does not bar recovery by him, but the percentage of negligence attributable to him will be used by the court to reduce the amount of damages he is entitled to recover.

If you decide that plaintiff is entitled to damages, it is your duty to determine the amount of money that will fairly compensate him for each of the elements of damage you decide has resulted from the negligence of the defendant. You should include each of the following

elements of damage that you decide has been sustained by the plaintiff to the present time, and that you decide are reasonably certain to be sustained by the plaintiff in the future:

- A. Physical pain and suffering;
- B. Mental anguish;
- C. Denial of social pleasure and enjoyment; and
- D. The loss of earning capacity.

Which, if any, of these elements of damage has been proved is for you to decide based upon the evidence. The amount of money to be awarded for certain of these elements of damage, such as pain and suffering, cannot be proved in a precise dollar amount. The law leaves this determination to your sound judgment.

If you determine that the plaintiff has suffered damages that will continue for the remainder of his life, you must determine how long he probably will live. In determining plaintiff's life expectancy, you may consider the mortality table of our statutes that shows that an ordinary healthy person of the plaintiff's age has a life expectancy of 52 years.

The court will furnish a special verdict form to assist you in your duties. Your answers to the questions in the special verdict form will provide the basis on which this case will be resolved.

AMERICAN VERDICT FORM

We, the jury, make the following answers to the questions submitted by the court:

QUESTION NO. 1: Was the defendant negligent?

ANSWER: (Yes or No)

If your answer is "no," do not answer any further questions.

QUESTION NO. 2: Was the defendant's negligence a proximate cause of injury or damage to the plaintiff?

ANSWER: (Yes or No)

If your answer is "no," do not answer any further questions.

QUESTION NO. 3: What is the total amount of plaintiff's damages?

ANSWER: \$ _____

QUESTION NO. 4: Was the plaintiff negligent?

ANSWER: (Yes or No)

If your answer is "no," do not answer any further questions.

QUESTION NO. 5: Was the plaintiff's negligence a proximate cause of injury or damage to the plaintiff?

ANSWER: (Yes or No)

If your answer is "no," do not answer any further questions.

QUESTION NO. 6: Using 100 percent as the total combined negligence which proximately caused the injury or damage to the plaintiff, what percentage of such negligence is attributable to the plaintiff?

ANSWER: _____ percent

Signed,

Foreperson

SPECIAL IMPEACHMENT PROBLEMS

Problem 1

Assume on direct examination that J. Fogels testified that his headaches lasted about three weeks after the accident, that he had intermittent double vision for about five weeks, and that he didn't tell anyone because he was afraid that a medical problem might interfere with his hockey season.

Problem 2

Assume at trial that A. Palips testified that he saw the cycle for only a short time, but it was enough time for him to form an estimate of speed, and that he is "sure" the speed was at least 50 miles per hour (80 kilometers per hour).

Problem 3

Assume on direct examination that J. Fogels testified that he was traveling "no more than 25 miles per hour (40 kilometers per hour) just before the collision."

Problem 4

Assume on direct examination that A. Palips testified that he checked his rearview and sideview mirrors and turned his head to look for traffic before pulling away from the curb.

DEPOSITION EXHIBITS

[insert Exhibit 1: Diagram of Accident Scene]

[insert Exhibit 2: Police Report]

SUPPLEMENTAL POLICE REPORT

INTERVIEW WITH VERONIKA RANKA

Ms. Ranka is twenty-six years old and is employed as an Executive Assistant to the President of Maxima SIA in Riga. She had eaten lunch at Lacis with Andris Palips who is a business associate, and was about to enter her car parked on Elizabetes iela when she heard a motorcycle rev its engine and crash into right, front quarter panel of Palips' Mercedes. Motorcyclist flies through the air and lands on pavement. Estimates speed of motorcycle at 50 mph/80 kph. Uncertain as to whether motorcyclist was wearing a helmet when impact occurred. Motorcyclist did not have helmet on when he came to rest on Elizabetes iela.

Witness reports that Mr. Palips had two vodkas to drink during lunch, but that he did not appear to be impaired in any way. Requested that she sign a statement, but she declined due to busy schedule.

INTERVIEW WITH VILHELMS BRIEDES

Witness is twelve years old. Witness approached officer while he was interviewing other witnesses. Appeared to be very upset. Handed helmet to officer and asked that it be returned to motorcyclist, who witness referred to as Janis. Witness states he found helmet on east side of Elizabetes between point of impact and where motorcyclist came to rest.

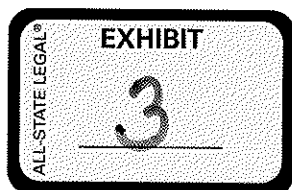
Assured witness that motorcyclist would be all right. Witness saw motorcyclist traveling in right lane of Elizabetes iela at witness and then change lanes from behind a bus into left lane of Elizabetes, whereupon Mercedes pulled away from curb quickly and into path of motorcycle. Witness unable to estimate speed in mph, but states that motorcycle was not going very fast, just a little faster than the bus. Witness is certain that motorcyclist was wearing helmet.

Witness identifies motorcyclist as Janis Fogels, who, according to witness, is a star hockey player. Offered to take witness home because of upset. Witness declined.

INTERVIEW WITH ANDRIS PALIPS

Witness was pulling away from parking place in front of Lacis restaurant when motorcycle ran into the front, right quarter panel of his YR-5 Mercedes. Witness had pulled out partly into left lane of Elizabetes iela when he was struck by motorcyclist who was traveling at a high rate of speed. Estimates speed of motorcycle at 50 mph/80 kph. States that he does not believe that motorcyclist was wearing helmet.

Witness states that he had lunch at Lacis restaurant. Admits to having one alcoholic drink during lunch. Does not appear intoxicated in any way. Witness states he has an important appointment and asks to leave before any more in-depth interview. Agrees to come into police station next day to give formal statement. Appears at station on 7/21 but declines to give written statement on advice of counsel. Witness is otherwise cooperative.



INTERVIEW WITH GEORGS MARKUS

Interviewed witness at scene. Witness has given signed statement (attached).

INTERVIEW WITH JANIS FOGELS

Interviewed witness at hospital. Witness has given signed statement (attached).

WITNESS STATEMENT

I, Georgs Markus, am twenty-three years old and live in the Teika section of Riga. I am a part-time student at Riga Technical School, and also work as a valet at Lacis on Elizabetes Iela in Riga.


I was working on July 20, YR-3 at approximately 2:00 p.m. I witnessed an accident where a motorcycle collided with the front, right of a Mercedes. I do not know the motorcyclist. The Mercedes was driven by one of our regular customers, Mr. Andris Palips.

Mr. Palips had lunch at Lacis on the 20th of July, arriving at approximately 12:15 and leaving at approximately 2:00 p.m. He came alone to the restaurant and I parked his car for him. I later moved his car to a parking space in front of the restaurant so that he could leave as soon as he finished lunch.

Mr. Palips got into his car, started it, turned on his lights, put on his seat belt, looked in the mirrors, and eased out into Elizabetes Iela. At that time, I heard the roar of a motorcycle and looked up to see a motorcycle driving at approximately 50 mph/80 kph, change lanes around a bus in the far right lane of Elizabetes, go into Mr. Palips' lane, and crash into the front, right quarter panel. The motorcyclist went flying. I don't think the motorcyclist was wearing his helmet because he didn't have it on when I saw him lying on the pavement, but it could have flown off when he hit. I just don't know. It happened so fast.

I don't think there was anything that Mr. Palips could have done to avoid the motorcycle. Given the speed and the fact that he came around the truck, I'm not sure there's anything the motorcyclist could have done either.

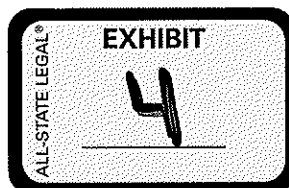
I have read the above five paragraphs. They are an accurate transcription of the statement I have given to Officer Obrickis of the Riga City Police Department. The statement is, to the best of my knowledge, true and accurate.



GEORGS MARKUS
July 21, YR-3



Witness: Raimonds Obrickis
RCPD



WITNESS STATEMENT

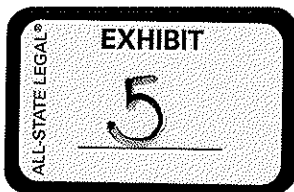
I, Janis Fogels, am seventeen years old and live with my parents in the Vef neighborhood in Riga. I am about to enter into my ~~14th~~ ^{12th} grade year of school. I am currently employed as a ~~waterfront~~ ^{RECREATION} director for the summer. Jf

On July 20, YR-3, at approximately 2:00 p.m., I was involved in an accident on Elizabetes iela between Skolas and Baznīcas in Riga. At that time my motorcycle collided with the front, right quarter panel of a Mercedes that was pulling into the left lane of Elizabetes iela. I was traveling at about 35 mph/56 kph on this 30 mph/50 kph road when the accident happened. The Mercedes pulled away from a parking space on the east side of Elizabetes iela when I ran into him. I could not avoid the collision.

After we hit, I went flying through the air. The next thing I can remember, I woke up in 1 Slimnīca. I am told that I didn't have my helmet on when I struck the pavement. I just can't remember, but I don't believe that because I always wore a helmet when I rode my bike. I have read the above three paragraphs. They are an accurate transcription of the statement I have said to Officer Obrickis. To the best of my knowledge, the statement is true and accurate.

Janis Fogels
Fogels, Janis
21 July, YR-3

Raimonds Obrickis
Witness: Raimonds Obrickis
RCPD



AMERICRAFT INDUSTRIES

Cereals for the New Century — Lab Brit!

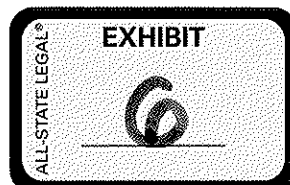
EXPENSE REPORT FORM YR-3

EMPLOYEE: Andris Palips

DEPARTMENT: Sales

DATE: 20-25, July

DATE	BUSINESS PURPOSE	AMOUNT	RECEIPT
19/07	Lunch, BMI	17.00 LVL	YES
	R. Cakars		
19/07	Gas	12.00 LVL	YES
19/07	Dinner Meeting	31.00 LVL	YES
	J. Palips Sales		
20/07	Lunch, MAXIMA	18.00 LVL	YES
	V. Ranka		
21/07	Dinner Meeting	34.00 LVL	YES
	Sales		
22/07	Car Rental	173.00 LVL	YES
22/07	Lunch, FLINDERS	24.00 LVL	YES
	A. Jansons		
23/07	Dinner Meeting	78.00 LVL	YES
	A. Jansons & M. Rauda FLINDERS		
23/07	Gas	13.00 LVL	YES
24/07	Lunch, MINICOM	16.00 LVL	YES
	E. Milstein		
24/07	Lunch, Demme	15.00 LVL	YES
	B. Demme		
25/07	Tolls for week	13.00 LVL	YES



LATVIAN NATIONAL HOCKEY TEAM

YR-3 RECRUITING RATING - CENTER

NAME: Fogels, Janis

POSITION: Center/Wing

Ratings:

Skating and Foot Speed: A+

Top-end speed: A

Lateral movement: A

Quickness and agility: A

Shot: L

Stick Handling: A

Size: 5'11'' 175 lbs.

Decision Making: B

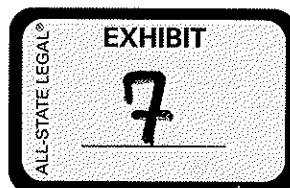
Leadership: B+

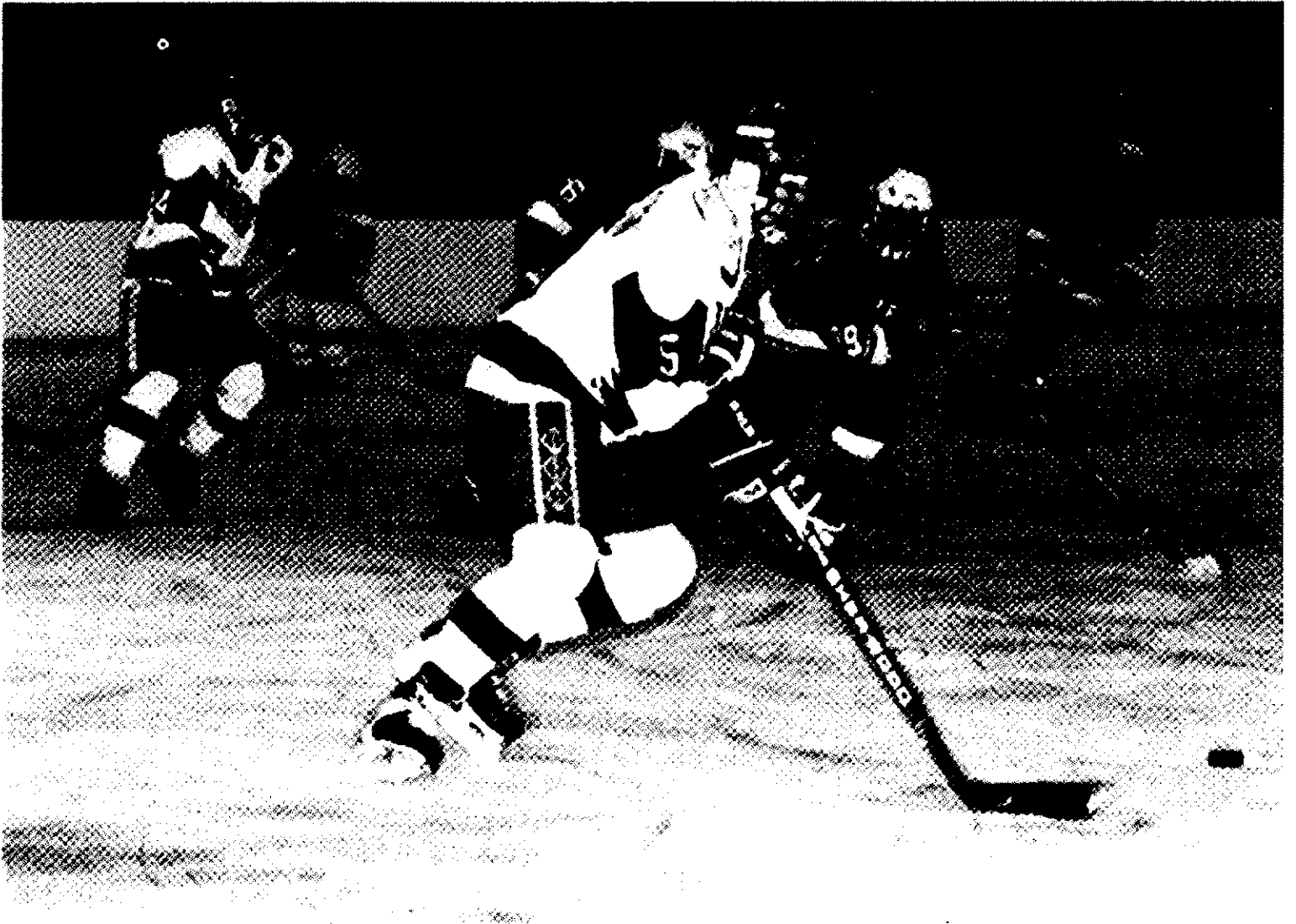
Quality of Previous Competition: B+

Win/Loss Record: A

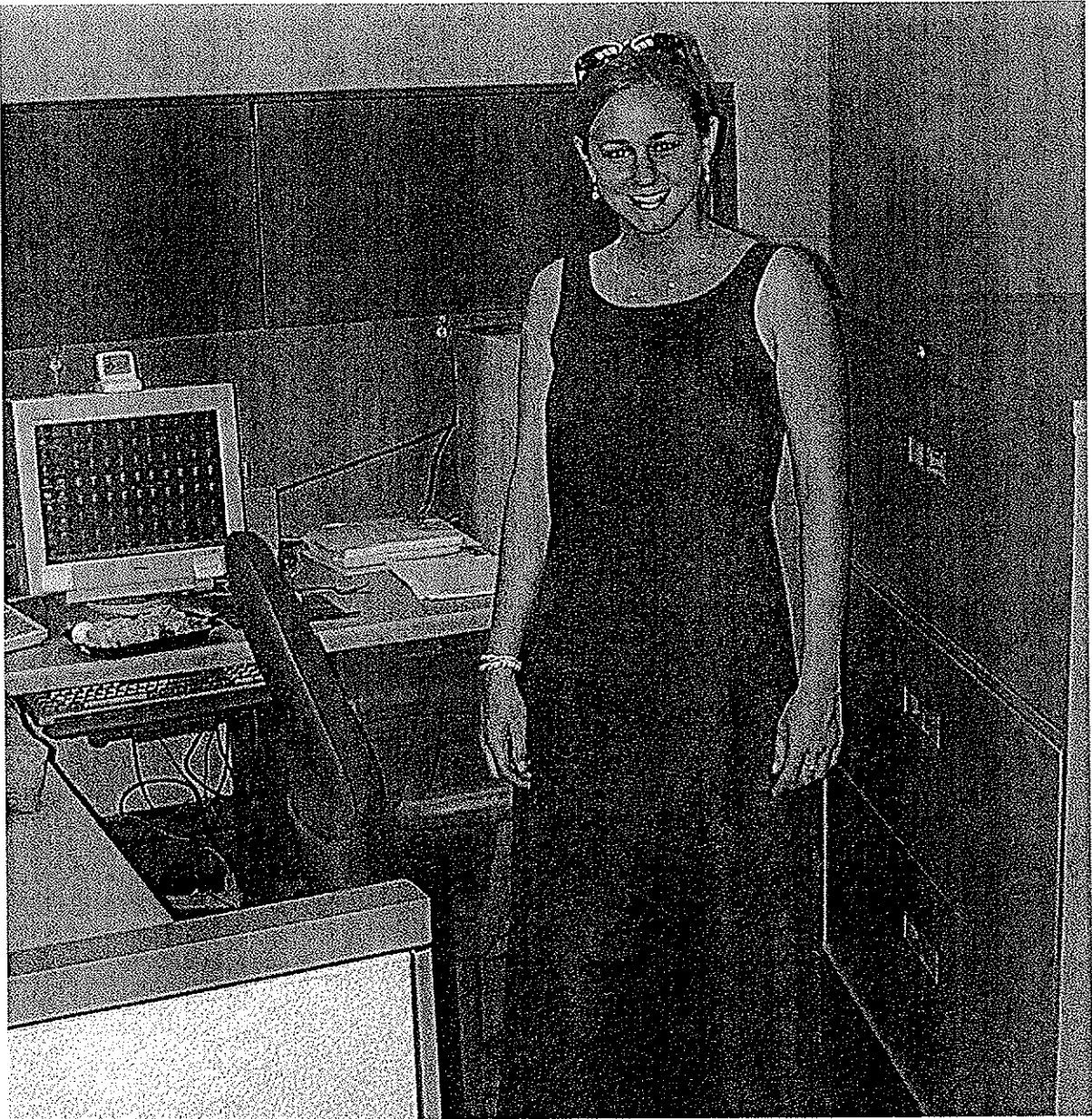
Latvian National Hockey Team Potential: A

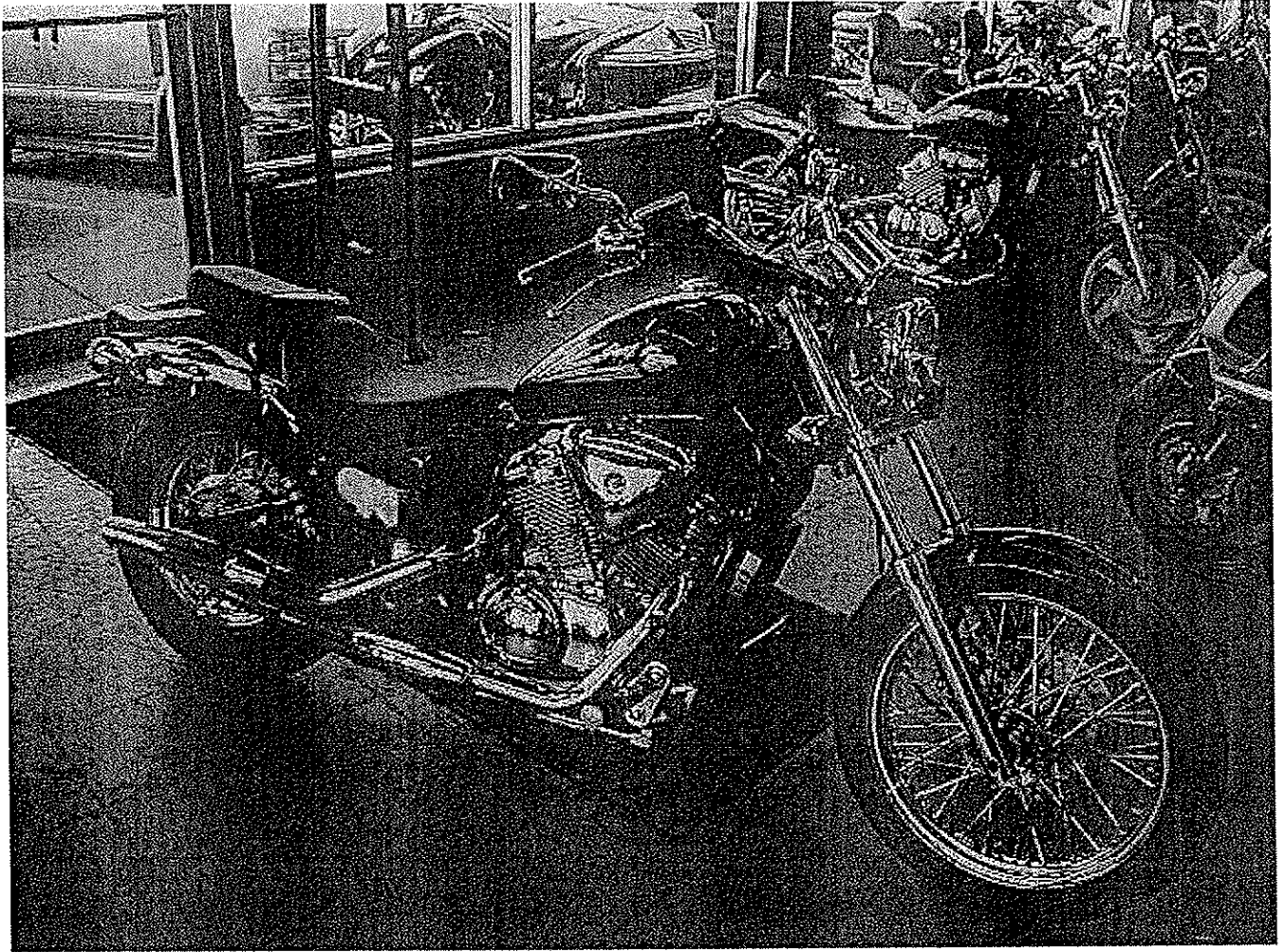
Overall: A-



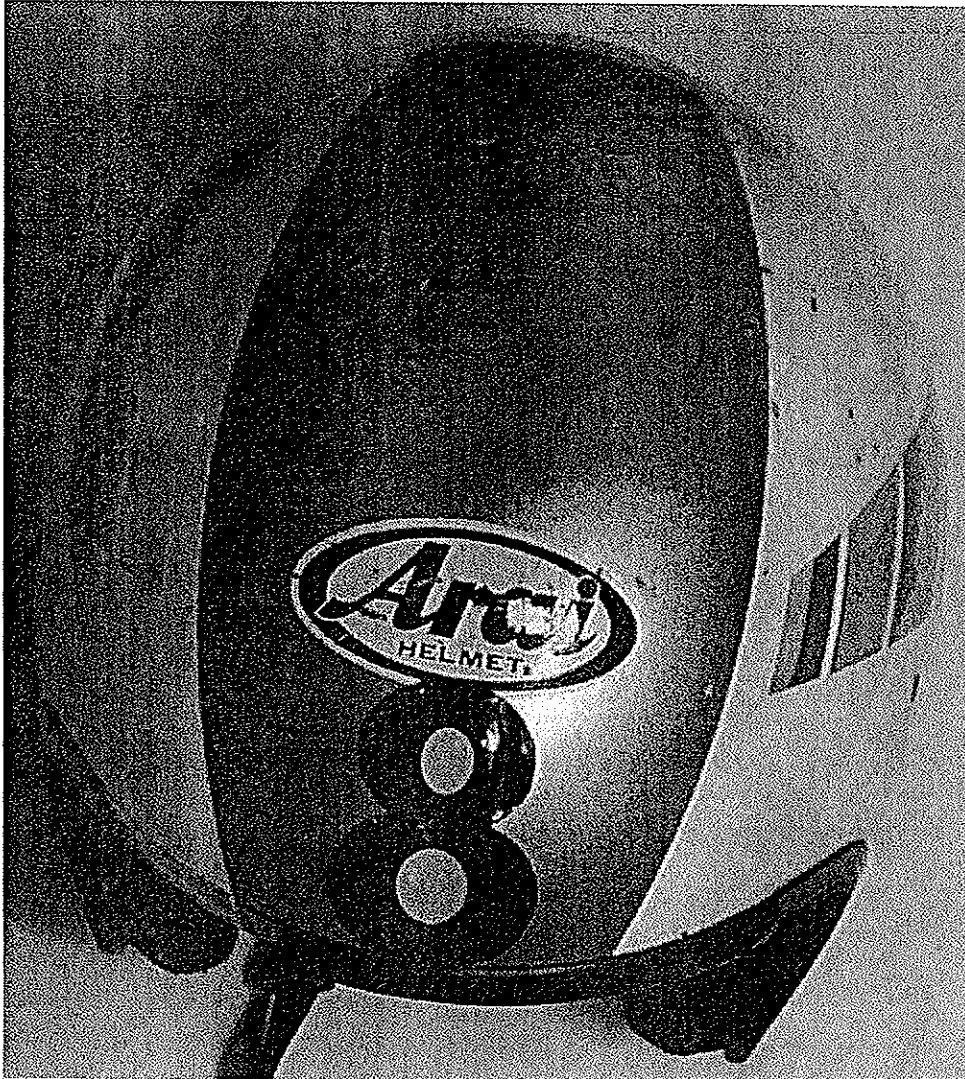


ALL-STATE LEGAL[®]
EXHIBIT
8

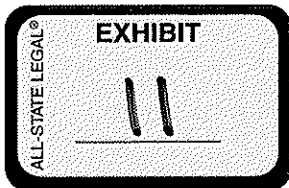




ALL-STATE LEGAL®
EXHIBIT
10



11





ALL-STATE LEGAL®
EXHIBIT
12



ALL-STATE LEGAL®
EXHIBIT
13A



ALL-STATE LEGAL®
EXHIBIT
13B



ALL-STATE LEGAL®
EXHIBIT
130



ALL-STATE LEGAL®
EXHIBIT
13D

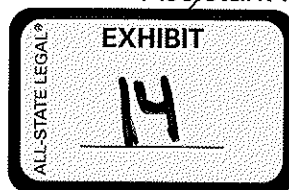
**1 SLIMNICA (RIGA HOSPITAL NUMBER 1)
Medical Records**

I hereby certify that the attached 4 pages
are true and accurate copies of the 1 Slimnica
medical records of patient:

JANIS FOGELS

Jaima Andersonne

Assistant Medical Records Librarian



1 SLIMNICA: Emergency Department

20/07/YR-3

Janis Fogels

Presenting Complaint: Motorcycle Accident

Arrived by: Ambulance

3:05 p.m.

Condition on Admission: FAIR GOOD COMA HEMORRHAGE

Accidental Injury: NO YES DATE: 20/07/3 TIME:

Allergies: NO YES SPECIFY:

TIME: 3:10 TEMP: 98.8 PULSE: 70 RESP: 18 B.P.: 120/80

TIME: 3:50 TEMP: 98.7 PULSE: 66 RESP: 17 B.P.: 115/78

NURSE'S NOTES

DOCTOR'S ORDER

Pt. reports loss of consciousness - unsure of duration. moderate headache. Oriented x3

MEDICATIONS: \emptyset

HISTORY AND PHYSICAL:

Hx: 17 year old male in motorcycle collision without helmet when Mercedes pulled into right-of-way without indicating. Pts speed at 80 Kph. Complains of headache, pain in extremities. EXAM: multiple minor contusions & abrasions, chest sounds normal, abdomen non-tender, neuro exam negative.

- CBC UA
- EKG CHEST X-RAY
- SKULL X-RAY
- arm L and leg x-ray
- head CT
-
-
-
- ALL X-RAYS
- NORMAL
-
-
-
-
- IMMUNIZATION
- SUTURE NO.

NURSE'S SIGNATURE: K. Lansing

TREATMENT: Abrasions cleaned & dressed. Instructed parents to watch for signs of post concussion syndrome and to check every 3 hrs. Return P.r.n. or see family doctor. Tylenol P.r.n.

DIAGNOSIS: Mild Closed head injury

DIAGNOSIS CODE:

Multiple abrasions and contusions.

PHYSICIAN: R. Ralston / MD

DISCHARGED COND.: Good TIME: 8:45p ADMITTED ROOM NO. TIME:

PATIENT'S PHYSICIAN Balode CONTACTED AT AM/PM UNABLE TO CONTACT

NOTIFIED: RELATIVE MEDICAL EXAMINER POLICE

INSTRUCTIONS TO: J. Fogels and Parents

I Understand I received Emergency Care Only. I am to call the physician listed below for follow up care. Dr. B. Balode (Call for Appointment)

I also acknowledge that I have received and understood the Emergency Physician's instructions.

Instructor: Patient's Signature: Janis Fogels



1 SLIMNICA: Discharge Summary

PATIENT: Janis Fogels

ADMISSION DATE: 9/12/YR-3

DISCHARGE DATE: 9/15/YR-3

ATTENDING PHYSICIAN: Balode

DISCHARGE DIAGNOSIS: 1. Convulsive Disorder, Post-Traumatic
2. Urinary Tract Infection

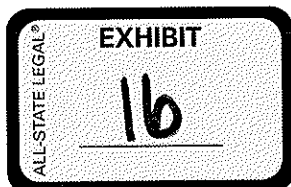
DOCTOR'S SUMMARY:

This 17-year-old boy was admitted from the emergency room, where he had been brought by his parents, after having been observed "going blank" at the dinner table, falling off his chair, and then having typical grand mal seizure activity including jerky movements of his limbs, loss of control of his bowel and bladder, salivation and cyanosis. This event resulted in unconsciousness lasting approximately 30 minutes.

History was non-contributory until approximately 6 weeks ago when patient was involved in a motorcycle accident, with closed head injury and loss of consciousness of approximately 30 minutes. On day of admission he suffered momentary unconsciousness after being checked in a hockey practice.

On admission patient was somewhat slow in verbal response, but this resolved over 2 or 3 hours. Vital signs were normal, except temperature of 101.2 degrees F. Physical examination revealed a well-developed, muscular, young male. He responded appropriately to commands, but displayed a somewhat flat affect. Examination of his cranial nerves showed pupils that were equally reactive to light and accommodation. His fundus showed no papilledema. His extraocular movements showed no nystagmus. His face was symmetrical on voluntary motion. The pharynx elevated intact. Motor examination revealed good strength throughout. The reflexes showed 1-2 + reflexes without the presence of pathologic reflexes. Sensory examination was normal for superficial, deep, and combined parietal sensation.

His coordination testing was normal. His gait and station were normal.




Laboratory data on admission revealed WBC elevated to 16,000. His chemistry profile was normal, as were his blood cultures. EEG of 9/13/YR-3 was reported as abnormal and paroxysmal and compatible with either focal or generalized seizure disorder. Brain MRI was unremarkable. Urinalysis and urine culture indicative of urinary tract infection.

Patient was placed on Dilantin, but continued to experience mild right focal seizures. His medication was increased to Dilantin 100 mg, q.i.d. He had no seizures the last two days of his hospitalization and was discharged on the same medication, with improvement in his convulsive disorder and without drug intoxication. His urinary tract infection was treated with appropriate antibiotics.

Have counseled the patient not to drive a motor vehicle or engage in any strenuous physical activity. Have informed him that under no circumstances is he to rejoin his hockey team as a player.

Final diagnoses: Convulsive disorder; focal and generalized, mostly likely secondary to trauma of motorcycle accident; urinary tract infection.


BRIGITA BALODE, M.D.
ATTENDING PHYSICIAN

1 SLIMNICA
REPORT OF ELECTROENCEPHALOGRAM

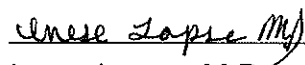
PATIENT: Janis Fogels

DATE: 13/09/YR-3

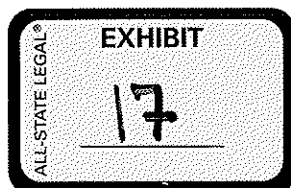
REFERRING PHYSICIAN: Balode

IMPRESSION: The EEG is abnormal and paroxysmal because of right-sided serial rhythmic Theta and Delta bursts with the occurrence of a single spike wave discharge in the right control region. There is no evidence for a progressive lesion at this time. The EEG is compatible with a convulsive disorder of either focal or generalized nature.

DESCRIPTION: The background activity is a 9 cycle/second Alpha rhythm with an amplitude of 40-60 microvolts. The recording consisted of a waking record with hyperventilation and photic stimulation. A brief stretch of light sleep was obtained. The remainder of the EEG was normal except for the occurrence of medium amplitude Theta and Delta serial rhythmic bursts occurring chiefly on the right side, with the occurrence of abortive spike wave forms in the discharges and also the occurrence of a single good spike wave discharge in the right central area. There was no polymorphic Delta focus. Photic stimulation and sleep were not activating. Hyperventilation was unremarkable.



Inese Lapsa, M.D.



BRIGITA BALODE, M.D.
14 MEDICAL ARTS BUILDING SUITE 302
RIGA, LATVIA
December 12, Yr-I

Ms. Inguna Jansone
33 Ave Kurjers
Riga, Latvia

Re: Janis Fogels

Dear Ms. Jansone:

I have closely followed your client and my patient, Janis Fogels, since his hospitalization in September of YR-3.

As you know, I have been Janis' physician since he was an infant, and the first significant history to his present condition occurred when Janis suffered a closed head injury with loss of consciousness for a period of approximately 30 minutes in a motorcycle accident in July of YR-3. He was treated at the 1 Slimnica emergency room and released to his parents' observation. His parents report that he acted somewhat lethargic and bizarre for a 24-48 hour period, and complained of headaches, but recovered without further complaints until approximately six weeks later. At that time, he suffered a mild head injury during hockey practice, with perhaps a momentary loss of consciousness. The evening of the hockey injury he suffered a grand mal seizure.

Janis was brought to the 1 Slimnica emergency room following the seizure, and was admitted to the hospital to my care, where he spent the next six days. An EEG indicated convulsive disorder, and he suffered numerous focal seizures over the next three days until his disorder was regulated by medication. He also was diagnosed with a urinary tract infection (with moderate fever and modest elevation of his white blood count). These were incidental findings having nothing to do with his seizure disorder.

Since that time, he has had a number of focal seizures and two or three grand mal seizures, all of which seem related to his failure to take his medication as prescribed. It is not at all unusual for a young patient such as Janis to deny the seriousness of his illness and to try to do without his medication. Since January of YR-2, he has been quite good about it, and has been seizure free, except for a brief period in November of YR-2 when he had the flu and suffered mild focal seizures. Undoubtedly, his bout with the flu affected the therapeutic level of his medication.



I most recently examined Janis on December 2, YR-1. His physical and neurological examinations were within normal limits. His EEG was reported as abnormal and paroxysmal. Although he has adapted to life without hockey and other strenuous physical activity, and has applied himself well to his studies, he does report some mild episodic depression. Given his history of athletics, this is quite normal and to be expected.

It is my feeling that his seizure disorder is secondary to the head trauma he sustained in the motorcycle accident of July 20, Yr-3. That view was shared by the late Dr. Filips Ikvilds, the neurologist who saw Janis in consultation during his hospitalization. I expect that Janis will be vulnerable to seizures for the rest of his life. But, hopefully, these can be controlled by anticonvulsants. I expect that he will have to take an anticonvulsant for the rest of his life.

There are certain limitations that I have imposed upon Janis. Because he has been seizure free for one year, I recently allowed him to drive a motor vehicle, but have limited him to absolutely essential driving, such as driving to and from school. Also, the type of employment he would be able to seek in the future is restricted, and he should absolutely not work at heights or with dangerous machinery. In general, he should avoid any situation where it would be a danger to his life or the life of another should he have a seizure. Of course, he should not engage in contact sports of any kind as head trauma may exacerbate his condition.

I will be pleased to testify on Janis' behalf, if necessary. My fee will be 173 LVL (\$300.00) per hour for any time necessary for trial preparation and testimony. Enclosed, at your request, is my resume.

Very truly yours,

A handwritten signature in black ink that reads "Brigita Balode". The signature is written in a cursive style with a large initial 'B'.

Brigita Balode, M.D.

BRIGITA BALODE, M.D.
14 MEDICAL ARTS BUILDING SUITE 302
RIGA, LATVIA

EDUCATION & TRAINING:

University of Latvia, B.S. Biology, YR-18
Academy of Medicine of Latvia, M.D., YR-15
1 Slimnica,
Residency, Family Practice, YR-15 - YR-12

PRACTICE:

Riga, General Family Practice,
YR-12 to present.

PROFESSIONAL MEMBERSHIPS:

University of Latvia, Latvian Postgraduate and Continuing Medical
Education Institute
Latvian Physicians' Association
Latvian Medical Society

HOSPITAL AFFILIATION:

1 Slimnica: Privileges in Family Practice

COMMUNITY ACTIVITIES:

International Women's Club of Riga
Entomological Society of Latvia
AFS Latvia, Executive Council



D.V. REINHOLDS
Raunas Iela 15b
LV - 3201

January 24, YR-0

Ms. Beatrise Celma
Cars & Celma, P.C.
Dzirnavu Iela 90
LV - 1010

Re: Janis Fogels

Dear Ms. Celma:

Pursuant to your letter of December 22, YR- 1, I have reviewed the material you forwarded to me, which included the 1 Slimnica Emergency Room record of July 20, YR-3, the 1 Slimnica discharge summary of September 19, YR-3, the EEG report relating to the September YR-3 hospitalization, and the report of Dr. Balode dated December 12, YR- 1. I also reviewed with you the deposition of Janis Fogels and the police accident report at the time of our conference last week. There are a number of sound medical reasons that lead me to believe that there was no medical relationship between the accident of July 20, YR-3 and the subsequent development of a convulsive seizure disorder.

The hospital records relating to his stay at 1 Slimnica in September, YR-3, indicate that there was a clear-cut evidence that he was suffering from an infectious process. He had a fever of over 101 degrees F. (39 C.) and had an elevated white blood count of 16,000. Cultures of his urine produced organisms indicative of a urinary tract infection. It is a well-known fact that convulsive seizures can be precipitated by an acute febrile illness, particularly in childhood. It is also a well-known fact that the usual age of onset of idiopathic epilepsy is in the teenage years, and the time of the subject's first seizure was 17 years old. There is considerable evidence that would indicate that the accident injury of July 20, YR-3 was actually a relatively minor one and would not be productive of the usual risk factors that are productive of a post-traumatic, convulsive seizure disorder. But, if any trauma was related to the convulsive disorder, it is undoubtedly the trauma the subject suffered on the day of the first seizure.

The important point here is that there is no medical evidence to indicate that the subject's seizure disorder resulted from the trauma of July 20, YR-3. For one to predict that he would have developed post-traumatic epilepsy from the motorcycle accident, one would have had to have medical evidence that he suffered brain damage as a result of the accident. In other words: 1) loss of consciousness; 2) clinical evidence of brain injury beyond his loss of consciousness; 3) skull fracture; and 4) bloody spinal fluid. The



evidence here shows a relatively brief loss of consciousness and none of the other risk factors. Indeed, the fact that the seizures started approximately six weeks after the accident is evidence against any causal relationship.

I see no medical reason to believe that the subject is not suffering from idiopathic (non-traumatic) epilepsy.

Thank you for referring this file to me. Further time for trial preparation and trial testimony will be billed at our customary \$500.00 (288 LVL) per hour. Enclosed, per your request, is a copy of my curriculum vitae.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. V. Reinholds', with a long, sweeping horizontal line extending to the right.

D. V. Reinholds, M.D.

CURRICULUM VITAE

D. V. Reinholds, M.D.

EDUCATION AND TRAINING

University of Latvia, B.S. YR-24

Harvard University, M. D. YR-20

Mayo Clinic, Internal Medicine internship YR-20 - VR- 19

Columbia Presbyterian Hospital, New York, New York, USA

Residency in Neurology, VR- 19 - YR- 16

PRACTICE

Riga: Private Practice in Neurology, YR- 13 to date

LICENSURE & CERTIFICATION

Licensure: Missouri, USA, New York, USA

Certification: Latvian Neurologists Association

PROFESSIONAL AFFILIATIONS

American Medical Association

Latvian Neurologists Association — Board Member

European Neurosurgeons Association and European Neurooncologists and Neurologists Association and World Neurosurgeons Association

American Board of Neurology & Psychiatry - Certified in Neurology

HOSPITAL AFFILIATIONS

General Hospital: Full privileges in Neurology

University of Riga Memorial Hospital: Full privileges in Neurology

St. Mary's Hospital: Full privileges in Neurology

Chief of Neurology, YR-5 - YR-3

MEDICAL EDUCATION ACTIVITIES

University of Latvia Medical School

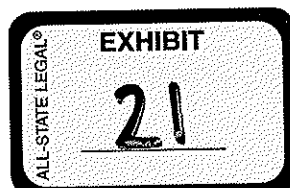
Clinical Instructor in Neurology YR- 10 to date

Latvian Research Institute of Traumatology and Orthopaedics

Frequent Lecturer on Neurology to General Practitioners

PUBLICATIONS

Author or co-author of 18 articles on neurology



EPILEPSY*

Evidence from animal models of epilepsy, in which convulsants are applied directly to the surface of the brain, suggest that the cellular basis of seizures is a paroxysmal, synchronous depolarization of clusters of nerve cells. There are two categories of seizures: focal and generalized. In focal seizures, this explosive neuronal activity is limited in its spread. The clinical manifestations depend upon the site of origin, and the seizure is not accompanied by a loss of consciousness. In generalized seizures, the focus of origin is often obscure and assumed to be in the diencephalic or mesencephalic neurons of the brain. Generalized seizures are virtually always accompanied by a loss of consciousness. In certain persons, they may evolve from a focal seizure or may be preceded by a few twitches or by particular smells or emotions ("aura") that suggest a particular locus of origin.

Both localized anatomic lesions and diffuse metabolic insults can trigger a seizure. Trauma, tumor, and vascular lesions (such as a previous stroke or arteriovenous malformation) all may provide a focal initiating irritant. Diffuse metabolic insults, including hypotension, hypoglycemia, hyponatremia, drug overdoses, and drug withdrawal, can result in generalized seizures or enhance the tendency of focal sites to fire. Although common in children, seizures due to high fever are rare in adults. Despite extensive work-up, a presumptive cause is found in only 20% to 25% of all seizures, and the yield is even less if the seizure is generalized without a focal prodrome.

Clinical Features

The two types of generalized seizures most commonly encountered in clinical practice are grand mal and petit mal seizures. Focal seizures are categorized into simple partial seizures (i.e., with either purely motor signs or sensory signs) and complex partial seizures (sometimes referred to as psychomotor or temporal lobe epilepsy).

Generalized Seizures. The *grand mal* seizure is the most dramatic generalized seizure. Sometimes preceded by a few twitches or subjective feelings of anxiety, the seizure more often begins abruptly and is thought to be derived from massive discharges of neurons deeper in the brain. Any focal seizure may culminate in a grand mal event.

The dramatic scene is familiar: the patient suddenly loses consciousness and cries out as his entire musculature contracts violently. Blue from the forced continued expiration and mouth clamped shut (sometimes upon the tongue), with blood pressure and pulse elevated from a massive autonomic discharge, the patient remains in this *tonic phase* for 10 to 15 seconds. The seizure then evolves into the *clonic phase*, with generalized twitching and jerking, which may last seconds to minutes. Subsequently, the patient may remain unresponsive for minutes to hours.

* Reprinted from *Medicine*, Second Edition, Mark C. Fishman, M.D., Andrew Hoffman, M.D., Richard D. Klausner, M.D., and Malcon S. Thaler, M.D. Philadelphia: J.B. Lippincott Company.



He gradually awakens, with no memory of the event, although there may be residua of trauma from the violence, bladder emptying, or even a postictal paralysis, called Todd's paralysis, that may last for hours.

In some patients, a grand mal seizure may not abate spontaneously or may recur without the patient's regaining consciousness. A medical emergency, this is referred to as *grand mal* status epilepticus. Bodily injury, fever, aspiration, acidosis, rhabdomyolysis, and hypertension and then hypotension occur, with consequent cardiac arrhythmias, hypoxemia, and even death if the seizures are not controlled. Permanent neurologic sequelae may result if the seizures persist for more than 1 ½ hours and presumably derive from neuronal death.

The petit mal, or absence, seizure is the other common type of generalized seizure. It is very rare in adults. The petit mal is characterized by only a fleeting moment of unconsciousness without collapse. The patient stares off into space, perhaps with some twitching movements of the face or arms or with curious automatisms, such as lip smacking.

Focal Seizures. In complex partial seizures, many of which manifest seizure foci in the temporal lobes, the patient does not lose consciousness. He appears confused and may suffer disagreeable visceral sensations followed by visual or auditory hallucinations or discognitive feelings about the immediate surroundings, which become abruptly unfamiliar (*jamais vu*), increasingly and vividly familiar (*deja vu*), or appear to shrink away into the distance. Simple repetitive acts, such as lip smacking, or strange behavior, such as undressing in public, may accompany or follow the seizure. Violent or destructive acts, although well popularized, are actually quite rare and are usually elicited by forcible restraint of a confused patient. It has been suggested that the personality of patients with complex partial seizures may be unusual between seizures, highlighted by an obsession with morals or ethics, humorlessness, and compulsive writing, suggesting that there is integration of such complex behaviors within the temporal lobes. Other focal seizures more clearly reflect a clinically recognizable cortical locus, with, for example, movement of the opposite extremity or turning of the head and eyes toward the opposite side. Sequential involvement of all of the muscles of one side of the body, reflecting progression along the map of the motor cortex, is called a Jacksonian march. Visual or olfactory hallucinations reflect discharges in the occipital or temporal lobes, respectively. Focal seizures generally abate spontaneously, but may become generalized or even persist as a focal status epilepticus (*epilepsia partialis continua*).

Etiology of Seizures

In the older adult population, the most common identified causes of seizures are trauma, cerebrovascular disease, and tumors; in the younger adult population, the most common causes are trauma, drugs, and tumors. However, an identifiable cause is found in less than 25% of seizures and in only about 15% of patients with generalized seizures without any focal activity. Embolic strokes are more commonly followed by seizures than are thrombotic or hemorrhagic strokes. The occurrence of a seizure during the evolution of a stroke is uncommon. Head trauma must be quite severe to result in post-traumatic epilepsy. If there is brain contusion or prolonged unconsciousness, there is a 10% incidence of epilepsy within the next 5 years. Less severe trauma, even if associated with brief unconsciousness, but without skull fracture or brain contusion, does not predispose to seizures. Alcohol withdrawal seizures occur about a day after the last drink, are always preceded by tremulousness, and are followed by delirium tremens

about 30% of the time. Withdrawal seizures may occur from many other drugs, such as barbiturates and benzodiazepines, and with the latter may be delayed because of the protracted half-life of the drug.

Diagnosis

It is important to identify the precipitant of a seizure whenever possible. First, seizures must be distinguished from other transient or recurring central nervous system events. The enhanced activity of a focal seizure usually is not easily confused with a transient ischemic attack of carotid origin, which may be accompanied by hemisensory loss, hemiparesis, and aphasia. Transient basilar artery insufficiency, however, may cause blackouts.

The distinction between the loss of consciousness deriving from a generalized seizure and that arising from transient hypotension, referred to as syncope, can be difficult to make. Furthermore, since a hypotensive episode may cause a seizure, sorting out the cause and the effect can be especially troublesome. A history of focal aura, postictal confusion, or incontinence favors the diagnosis of a seizure. Syncope caused by ventricular tachycardia, complete heart block, or profound bradycardia may be suggested by premonitory palpitations or the persistence of electrocardiographic changes on admission. A 24-hour electrocardiographic monitor will often detect such abnormalities. Valvular heart diseases, especially critical aortic stenosis or asymmetric septal hypertrophy, can cause syncope as well. Orthostatic syncope (occurring when the patient assumes the erect position) may occur with profound volume loss due to diarrhea or hemorrhage and thus usually presents little confusion. Vasovagal syncope, the common faint, is provoked by discomfort, pain, or fear. It occurs generally *after* the danger has passed and seems to be caused by a central reflex that includes peripheral vasodilation and bradycardia. The patient feels queasy and light-headed, has cool, clammy skin, is bradycardic, and will pass out if kept upright.

A description of the seizure, often given by a companion of the patient, is a critical component of the work-up. It is important to establish the loss of consciousness or a history of previous strokes or head trauma. Did the seizure, even if generalized, begin with focal twitching or an aura, suggestive of a focal origin? Did palpitations or chest pain precede the event, suggesting an arrhythmia or hypotension? Some drugs may precipitate seizures when present in toxic concentrations, such as lidocaine, meperidine, propoxyphene, and aminophylline, and others during withdrawal, especially alcohol, barbiturates, meperidine, and propoxyphene.

The neurologic examination of the patient following a seizure is directed toward finding focal abnormalities, although focal findings may persist transiently, even without any focal central nervous system lesions. The electroencephalogram (EEG) and computed tomography (CT) scan are essential components of the workup. The EEG is performed by attaching electrode leads to the scalp that record the electrical activity of the brain. It is an inexact and insensitive tool capable of recording only from large and superficial brain regions. The EEG may reveal focal paroxysmal activity in up to two thirds of patients with focal seizures. However, it is normal in 20% of patients with generalized seizures and only reveals nonspecific abnormalities in many others. Sensitivity may be enhanced by several maneuvers: a sleep EEG, for example, with nasopharyngeal leads, reveals a focus in up to 90% of patients with temporal lobe seizures. Treatment of seizures may not always ablate the paroxysmal EEG focus so, the EEG is frequently not a useful tool in following patients with a seizure disorder during therapy.

CT scan is indicated for all patients who present with their first seizure. About 10% of such patients will have a tumor discovered. Other resectable lesions, such as subdural hematoma

or brain abscess, may also be found. The yield is lower in patients who have alcohol withdrawal seizures, and CT scans should probably be reserved for those persons in that population who also have some focal neurologic abnormality.

A skull x-ray may reveal a skull fracture or a calcified intracranial tumor or congenital lesion, but has become unnecessary with the advent of CT scans. Lumbar puncture is mandatory in patients with a seizure and fever, although a careful ophthalmologic examination should first be performed to look for papilledema, a sign of increased intracranial pressure (a finding that should prompt an emergency CT scan prior to a potentially dangerous lumbar puncture). Fever is not uncommon in seizures unaccompanied by infection, but infection must always be ruled out. In most patients with a seizure, the lumbar puncture is usually unrevealing. The cerebrospinal fluid is often normal except in the immediate wake of the seizure, when there may be a slight increase in the protein and white blood cell count.

Therapy

Seizure therapy is instituted in two settings: (1) to prevent recurrence after a self-terminating seizure and (2) to abort an unrelenting seizure (status epilepticus). All potentially reversible abnormalities, such as hypotension, hyponatremia, or hyperthermia, must be corrected. In general, seizures precipitated by metabolic abnormalities do not necessitate the initiation of antiseizure medicines if the seizures do not recur after correction of the underlying derangement. However, further work-up may be warranted if there is any suggestion (*e.g.*, evidence of focal neurologic dysfunction) that the metabolic disturbance is itself secondary to meningitis or to a mass lesion of the brain, and prophylactic antiseizure medication is sensible until such work-up is completed.

Seizure Prophylaxis. The patient who has had his first seizure should be hospitalized, both for work-up and for initiation of drug therapy. If the seizure has stopped, drug therapy with one antiepileptic drug should be initiated. Assays for serum concentrations of most of these agents are available and should be used to ensure adequate levels. If, despite therapeutic concentrations of one antiepileptic agent, seizures occur, a second drug may be added. For most seizures in adults (essentially all seizures except petit mal), phenytoin, phenobarbital, and carbamazepine are all effective. Each has its own proponents. Absence seizures are treated with valproic acid or ethosuximide.

Phenytoin may be administered orally (sometimes as a single daily dose) or intravenously. Without a loading dose, therapeutic levels are achieved only after 1 week. Nystagmus is common, even at therapeutic levels. At higher levels, ataxia and, eventually, coma may appear. Early in therapy, a rash may develop. With chronic therapy, many side-effects have been noted, including osteomalacia, hirsutism, gingival hyperplasia, hepatitis, a peripheral neuropathy, and a megaloblastic anemia. Phenytoin is metabolized in the liver and accumulates both during hepatic failure and when given concomitantly with drugs that compete for microsomal metabolism, such as isoniazid and the coumarin derivatives. Other drugs (phenobarbital, carbamazepine) induce the metabolic enzymes that diminish the phenytoin level.

Phenobarbital, a barbiturate, may cause drowsiness, a problem that seems to diminish as the duration of therapy continues. With intoxication, ataxia and coma appear. Because phenobarbital is a weak acid that is mainly excreted by the kidneys, alkalization of the urine enhances excretion. Phenobarbital induces several hepatic enzymes and thus enhances degradation of other drugs, including phenytoin.

Carbamazepine is being used increasingly as the initial drug for the treatment of seizures. The starting dose should be low and only gradually increased to keep side-effects to a minimum. These include drowsiness, nystagmus, water retention, and, most importantly, blood dyscrasias.

Primidone is usually a second-line drug. It chemically resembles phenobarbital, and is metabolized within the body to phenobarbital and a second agent, phenylethylmalonamide, with antiepileptic activity.

Absorption, distribution, protein binding, renal elimination, and hepatic metabolism all affect the serum level of each of these agents, and there is therefore much individual variation in serum and tissue levels achieved with any given dose. Agents used in combination affect each other's metabolism, so levels need to be checked before any given drug is deemed unsuccessful and must be checked again if other agents are added to the regimen or if side-effects appear.



ALL-STATE LEGAL®
EXHIBIT
23

NOTES

