2012 NATIONAL STUDENT TRIAL ADVOCACY COMPETITION

OFFICIAL RULES

and

FACT PATTERN

Endowed by Baldwin & Baldwin, LLP
Important Dates:

Requests for fact pattern clarification due: December 16, 2011
Team Roster forms due (students must be AAJ members): January 27, 2012
Regional Competitions: March 1-4, 2012
National Final Competition: March 22-25, 2012

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AAJ’s 2012 Fact Pattern is authored by A. Michael Gianantonio of Pittsburgh, PA. AAJ extends its thanks and appreciation to Mr. Gianantonio for developing the 2012 Fact Pattern.

Please note:

All information regarding the 2012 Student Trial Advocacy Competition is also available at www.justice.org/STAC and will be updated frequently.

All questions and correspondence should be addressed to:

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Formerly the Association of Trial Lawyers of America (ATLA®)
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GENERAL INFORMATION

One of AAJ’s goals is to inspire excellence in trial advocacy through training and education for both law students and practicing attorneys. One way AAJ accomplishes this goal is by sponsoring a national student mock trial competition. This is an exceptional opportunity for law students to develop and practice their trial advocacy skills before distinguished members of the bar and bench.

Because the purpose of this competition is to give law students the opportunity to develop their trial skills, the actual merits of the plaintiff’s case and the defendant’s case presented are irrelevant to this purpose. Competition rounds are decided not on the merits of a team’s side but on the quality of a team’s advocacy.

Requests for Clarification

Requests for clarifications of the rules or fact pattern must be made in writing and received by Emmah Schramke via e-mail at emmah.schramke@justice.org no later than 5:30 p.m. (EST) on December 16, 2011. Each school is limited to five (5) questions. No school, regardless of the number of teams it has in the competition, may submit more than five questions. Each subpart of a question is counted as a question.

RULE VIOLATION AND FILING OF COMPLAINTS

A competitor or coach violating any of the rules governing the national Student Trial Advocacy Competition may be penalized or disqualified. If a team wants to file the complaint under the rules, the team’s coach should immediately notify the regional coordinator at a regional competition or the final round coordinator at the final competition. The coordinator will review the complaint and make a ruling which shall be binding for that round of competition. The coordinator’s rulings will be governed by the rules of the competition and the objectives of the program.

Complaints after a regional competition or after the national competition must be filed in writing with Emmah Schramke at the address provided above no later than the seven (7) days following the last day of the regional or final round, as appropriate. The AAJ Law Schools Committee will promptly consider and rule on any such complaints.

LAW SCHOOL & STUDENT ELIGIBILITY

The competition is open to all law schools nationwide. A law school may enter up to two teams. Each team shall be comprised of four law students. A school’s selection method of its trial team(s) is left for the school to determine. However, for a student to be eligible, he or she must be enrolled for a J.D. degree and be a student member of AAJ.
Students who graduate in December 2011, are eligible to participate only if the competition counts toward their credits for graduation and they will not be admitted to practice prior to March 2012.

_each student participant must be an AAJ student member by January 27, 2012 in order to participate._

**REGISTRATION PROCEDURES**

**Refund Policy**

Requests for a refund of a school’s registration fee were due in writing before November 10, 2011. It is inevitable that a few teams drop out of the competition in the months leading up to the regionals. Teams placed on the waiting list because the competition is full will be contacted for participation in the order that their registrations were received. Teams on the waiting list will also be issued a refund check if it is determined that the team will not be competing. Schools that registered two teams but are only able to enter one team because the competition is full will receive a refund of the registration fee for the second team.

**AAJ Student Membership**

Student team members must be AAJ members by January 27, 2012 in order to participate. Please call AAJ’s member hotline at (202) 965-3500, extension 8611, to determine whether students on the team are current members and that their memberships will be active at the time of the competition. AAJ Law Student membership dues are $15. To become a member or to renew a membership, you may complete an application online at www.justice.org, or call AAJ’s member hotline at (202) 965-3500, extension 8611, and join over the phone. Students should indicate that they are Student Trial Advocacy Competition participants.

**Student and Coach Registration**

AAJ must receive the names of the participating students and coach for each team. Each team must complete a team registration form and return it to AAJ by January 27, 2012. Please be sure to include the complete mailing address, date of birth, and graduation date for each student on the team registration form. This information is required to process the team registration.

**Student Substitution Policy**

Substitution of team members after January 27, 2012 is not permitted except in the case of personal emergencies. Requests for substitution after the January 27 deadline must be made in writing with an explanation of why the substitution is needed and sent to Emmah Schramke at AAJ for consideration.
REGIONAL AND FINAL COMPETITION ASSIGNMENTS

Entering teams will be assigned to one of fourteen regional competitions based on geographical convenience to the extent possible. Teams from the same law school will be assigned to the same region. If a school’s second team is waitlisted, there is no guarantee that second team will be sent to the same region as the first team. Teams will be notified of any date changes when regional assignments are made. Please remember that a school’s second team will not be officially registered until one team from each law school has entered the mock trial competition. Then the second teams will be registered on a first-come, first-served basis until all the team slots are filled. If you paid for two teams and only one team is able to participate, you will receive a refund for the second team.

In order to officially compete in the competition, a team MUST receive their regional assignment. If a team is not informed by AAJ that it is able to compete, that team is not registered for the competition.

Coaches

A coach must accompany each team to the regional and the final competitions. The coach for a team that goes to the final competition does not have to be the person who coached the team at the regional competition.

A coach may be a law student, but may not be a student who is competing in the competition.

Only team coaches are permitted to attend the coaches’ meeting. If a coach is unable to attend, he or she must notify AAJ and the regional coordinator. Only then can students be permitted to attend in the coach’s absence.

Team Expenses

Travel expenses for the regional and final competitions are the responsibility of the participants. Teams competing in past competitions have obtained funds from law school deans and alumni associations, members of the local legal community, state and local trial associations, and AAJ law school chapters.

COMPETITION FORMAT

This is a trial skills competition. There is no motion or trial brief writing component. Each team will consist of four law students. Two students will be advocates and two students will play the witnesses for their side in each round. Advocates and witnesses may change their roles from round to round, but roles must remain consistent throughout each individual trial.
In the regional competitions:
- Each team will compete in three qualifying rounds
- The top four teams from the qualifying rounds will advance to a single elimination semi-final round
- The top two teams from the semi-final round will compete to determine which one team will advance to the National Final Competition

In the final competition:
- Each team will compete in three qualifying rounds
- The top eight teams from the qualifying rounds will advance to a single elimination quarter-final round
- The top four teams from the quarter-final round will advance to a single elimination semi-final round
- The top two teams from the semi-final round will advance to a single elimination final round

Regional Team Pairings in Qualifying Rounds

Pairing of teams in the qualifying rounds will be at random and conducted during the coaches’ meeting prior to each competition. Teams may also be pre-assigned by the regional coordinator prior to the coaches’ meeting. Each team will represent both plaintiff and defendant in the first two rounds. No two teams shall compete against each other more than once in the qualifying rounds. Teams from the same school will not compete against each other during any of the rounds of the regional competition or in the qualifying rounds of the national final competitions.

Team Rankings in All Other Rounds

In the semi-final round, the first-ranked team will meet the fourth-ranked team, and the second-ranked team will meet the third-ranked team.

Regional semi–final round (Normal pairings: 1 v. 4; 2 v. 3)
- Situation 1: Teams ranked 1 and 4 are from the same school
  - New pairings: 1 v. 3; 2 v. 4
- Situation 2: Teams ranked 2 and 3 are from the same school
  - New pairings: 1 v. 3; 2 v. 4

The ranking of teams to determine the semi-finalists and finalists will be determined by the following factors (in this order):

1. Win/Loss record
2. Number of winning votes
3. Number of total points awarded to the team
Each succeeding criterion above will be used only if the prior criterion does not fully rank the teams, and will be used only to break ties created by the use of the prior criterion.

If paired regional semi-final teams have met in the qualifying rounds, they will each represent different sides than in the previous meeting. If they have not yet met, each team will take the side they represented only once in qualifying rounds. If matched teams represented the same side only once, the winner of a coin toss will choose sides.

In the regional finals, the teams will represent a different side than in the semifinal round. If two opposing teams each represented the same side in the semi-final round, the winner of a coin toss will choose sides. The two regional finals teams will represent a different side than in the semi-final round. If matched teams in the final round represented the same side in the semi-final round, the winner of a coin toss will choose sides.

When an odd number of teams compete at a regional competition, one randomly chosen team will receive a “bye” in each qualifying round. For ranking purposes, a bye will count as a win and the team with the bye will be deemed to have had three votes and the points equal to the average of the team’s points from the two other qualifying rounds.

NATIONAL FINALS

Quarter-final round (Normal pairings: 1 v. 8; 2 v. 7; 3 v. 6; 4 v. 5)

Situation 1: Teams ranked 1 and 8 are from the same school
New pairings: 1 v. 7; 2 v. 8; 3 v. 6; 4 v. 5

Situation 2: Teams ranked 2 and 7 are from the same school
New pairings: 1 v. 7; 2 v. 8; 3 v. 6; 4 v. 5

Situation 3: Teams ranked 3 and 6 are from the same school
New pairings: 1 v. 8; 2 v. 7; 3 v. 5; 4 v. 6

Situation 4: Teams ranked 4 and 5 are from the same school
New pairings: 1 v. 8; 2 v. 7; 3 v. 5; 4 v. 6

Semi-final round (Normal pairings: 1 v. 4; 2 v. 3)

Situation 1: Teams ranked 1 and 4 are from the same school
New pairings: 1 v. 3; 2 v. 4

Situation 2: Teams ranked 2 and 3 are from the same school
New pairings: 1 v. 3; 2 v. 4

If teams from the same school are matched to compete based on rank in the semi-final and final rounds of a regional competition, regional hosts will re-pair teams according to the following scenarios:
**Determination of Team Representation**

If the four national and regional semi-final teams have already met in the qualifying rounds, they will represent different sides from the previous confrontation. If they have not yet met, each team will take the side they represented only once in qualifying rounds. If matched teams represented the same side only once, the winner of a coin toss will choose sides.

The national finals semi-final teams will represent a different side than in the quarter-final round. If matched teams represented the same side in the quarter-final round, the winner of a coin toss will choose sides. The two national final teams will represent a different side than in the semi-final round. If matched teams represented the same side in the semi-final round, the winner of a coin toss will choose sides.

**THE TRIAL**

The competition this year involves the trial of a civil lawsuit. The same fact pattern will be used in the regional and final competitions. The trial judge previously ruled that the case would be bifurcated, and the case being tried in the competition is the first phase of the case—the liability phase. Only evidence relevant to the liability issue will be received. There are no pending third-party claims.

The Federal Rules of Evidence (FRE) and Federal Rules of Civil Procedure (FRCP) are the applicable rules of evidence and civil procedure. Only these rules, and the law provided in the fact pattern, shall be used in argument. Specifically, no statutory, regulatory, or case law shall be cited unless such law is provided in the fact pattern.

Students may argue based upon the comments or advisory notes to the Federal Rules of Evidence but may not cite the cases contained therein. No written briefs or motions, trial notebooks, or other written materials may be presented to the judge hearing a case.

No pretrial motions of any kind are allowed.

Motions for a judgment as a matter of law and evidentiary objections are permitted.

The trial will consist of the following phases by each team in this order:

- Opening statements for plaintiff followed by defendant
- Plaintiff’s case-in-chief
- Plaintiff’s direct of plaintiff’s witness #1
- Defendant’s cross of witness
- Plaintiff’s redirect of witness
- Similar for plaintiff’s witness #2
- Defendant’s case-in-chief
- Defendant’s direct of defendant’s witness #1
- Plaintiff’s cross of witness
• Plaintiff’s redirect of witness
• Similar for defendant’s witness #2
• Closing argument
• Plaintiff’s first closing
• Defendant’s closing
• Plaintiff’s rebuttal closing

Each side is limited to two live witnesses whom they may call in any order.

• Plaintiff must call Quinn Chase and Chris Streib
• Defendant must call August Henry and Sid Cosbey

The trial has six (6) major advocacy opportunities for each team: Opening statement; Direct/Redirect examinations (2); Cross-examinations (2); and Closing Argument. Each member of a team must handle three of the six opportunities. Opening statement and closing argument may not be done by the same person, and may not be split between team members.

During the competition, each team will represent both parties. Pairing in the qualifying rounds will be at random, with each team representing both plaintiff and defendant at least once in the three rounds.

Except in the final round, the courtrooms will be off-limits to all team members, coaches, friends, and family members who are not associated with either team competing, unless their team has already been eliminated from the competition.

No team may receive any coaching from anyone in any form during a round, including any recesses or breaks. The regional or national coordinator, as applicable, has the authority to punish any violation of this rule by disqualifying the team from the remainder of the competition.

A team may record its trial if: (1) no additional lighting is required; (2) recording of the trial does not interfere with or delay its conduct; and, (3) all participants of the round, including the presiding and scoring judges and the regional or national coordinator, as applicable, agree.

**Timing of the Trial**

• Each team will have 80 minutes to complete its argument.
• The time limit will be strictly enforced, although it is not necessary that all time allotted be used.
• There will be no time limits for specific aspects of the trial.
• Time on cross-examination is charged against the team conducting the cross-examination.
• Time will be stopped for objections and responses to objections.
• Performance at trial will be evaluated by a panel of judges and/or attorneys, one of whom will preside over the trial as Judge, making rulings as necessary, and the remainder (up to three) of whom will act as the jury.

Facts outside the Record

Lawyers must confine the questions and witnesses must confine their answers to the facts given in the fact pattern and inferences which may reasonably be drawn therefrom (“the Record”), and any matters judicially noticeable under Rule 201 of the Federal Rules of Evidence. An “inference” is not any fact that a party might wish to be true; rather, it is a fact that is likely to be true, given the other facts in the case.

Except during closing argument, no objection may be made to the effect that that the opposing team is going outside the Record. Instead, instances of a party going outside the record may be addressed by means of impeachment of the offending witness or by contradiction using another witness or document.

When true, witnesses must admit, if asked, that the “facts” they have testified to are not in their deposition or otherwise in the record. Witnesses may not qualify this response in any misleading way by saying, for example, that they were not asked about the fact at deposition, or that the facts were contained in some other portion of the deposition, which was omitted from the record. The answer from the witness who is asked to admit the material was not in the deposition must be that the questioner is correct; to wit, “Yes, I did not say that in my deposition.” All judges will be instructed as to the significance of this form of impeachment, and are likely to take into account unfair additions to the record (i.e., inferences which may not reasonably be drawn from the record) in their scoring of the witness’s team.

Witnesses

Any witness may be played by a person of either gender. Before the opening statement, each team should notify the other team of the gender of each witness they intend to call and any witness they could call but are choosing not to call.

Assume that all witnesses have seen the exhibits and depositions. Witnesses know only the facts contained in the background information, exhibits, and depositions.

All depositions are signed and sworn. The same attorney conducting direct examination of a witness shall also conduct any redirect examination.

The only lawyer who may object during witness testimony is the lawyer who will be examining that witness.

Witnesses may not be re-called. Witnesses will not be sequestered.
JURY INSTRUCTIONS

The instructions provided in the fact pattern are the only instructions that will be given. The instructions are the only statements of the applicable substantive law. Instructions will not be eliminated or modified. No additional instructions may be tendered or will be given.

EXHIBITS

The use of demonstrative evidence is limited to that which is provided in the fact pattern but participants are free to enlarge any diagram, statement, exhibit, or portion of the fact pattern if it is identical to the item enlarged, or if any changes provide no advantage to the party intending to use it.

Subject to rulings of the court, counsel and witnesses may draw or make simple charts or drawings in court for the purpose of illustrating testimony or argument. These materials may not be written or drawn in advance of the segment during which they are being used.

No demonstrative evidence, including charts or drawings, may reflect facts outside the record. Participants must clear all demonstrative evidence with the regional or national coordinator, as applicable, at the coaches’ meeting preceding the competition.

All exhibits are stipulated as authentic and genuine for purposes of trial.

SCORING CRITERIA

Performances at trial will be evaluated by a panel of three judges and/or attorneys, one of whom will preside as the trial judge, with the others sitting as jurors. The trial judge will rule on any objections or motions for judgment as a matter of law.

Each member of the jury may award up to five points in each phase of trial for each party. A sample score sheet is attached.

If at the end of the trial, an evaluator awards the same number of points to both the plaintiff and the defendant, the evaluator will award one additional point to either the plaintiff or the defendant for effectiveness of objections and/or overall case presentation in order to break the tie.

Evaluators have been instructed not to score teams on the merits of the case.

The following criteria for scoring trial performances are set forth to assist both judges and student advocates. Evaluators are not limited to these criteria and may consider other aspects of strategy, technique, etc., which they view as important.
Evaluator Shortage

For each match, there must be three votes from evaluators. In the event that, due to circumstances beyond AAJ’s control, there are not three evaluators in a particular match, “ghost” evaluator(s) will be used to score the round.

The vote of a ghost evaluator is determined by calculating the average of all other evaluators in the session. If there is only one evaluator for a trial, the score for each of the absent evaluators will be the same as the score for the evaluator who is present.

Suggested Evaluation Criteria

OPENING STATEMENT

Did Counsel:
1. Generally confine statement to an outline of the evidence that would be presented?
2. Clearly present counsel’s theory of the case?
3. Persuasively present counsel’s theory of the case?
4. Personalize self and client?
5. Allow opposing attorney to make argument during opening statement?
6. Make unnecessary objections?

EXAMINATION OF WITNESSES

Did Counsel:
1. Ask questions that generated minimal valid objections?
2. Make/fail to make objections with tactical or substantial merit?
3. Respond appropriately to objections?
4. Know the rules of evidence and express that knowledge clearly?
5. Develop rapport with the witness?
6. Maintain appropriate general attitude and demeanor?
7. Address the court and others appropriately?
8. Demonstrate awareness of ethical considerations?

Did Direct-Examiner:
9. Use leading questions unnecessarily?
10. Develop testimony in an interesting and coherent fashion?
11. Follow up on witness’ answers?
12. Present the witness in the most favorable light?

Did Cross-Examiner:
13. Appropriately use leading questions?
14. Control witness?
15. Follow up on answers and elicit helpful testimony?
16. Use impeachment opportunities?
CLOSING ARGUMENT

Did Counsel:
1. Present a cohesive theory of the case, pulling all the positive arguments together?
2. Deal effectively with the weakness(es) in his or her own case?
3. Make an argument that was persuasive?
4. Have an effective style of presentation?
5. Utilize the law effectively in the argument?
6. Inappropriately interrupt the argument of the opposing counsel?
7. Properly confine rebuttal to rebuttal matters?
8. Effectively counter the opponent’s speech in rebuttal

Discrepancies in Remaining Match Time

Often, bailiffs are unavailable to keep time for rounds. In such cases, one or more judges in each match should be instructed to keep time according to the timekeeping rules. Teams may keep track of time used for their own purposes. They may not, however, report their time used or that of an opposing team to the bailiff or judge for any purpose. Moreover, time use improperly reported by any team may not be considered or used by a bailiff or judge for any purpose. Notwithstanding this limitation, in the event that the match judge or judges declare the time remaining as less than the team requires for closing or other parts of the trial. The coach or team member (whoever records the time discrepancy\(^1\)) should immediately consult with the Regional Coordinator during the break, who should then evaluate the circumstances and decide the amount of time remaining. Neither the team coach nor the team member should discuss the discrepancy with the match judge. Should the team be unable to consult with the Regional Coordinator before completion of the trial and the team requires additional time to complete the trial, the team may elect to complete the trial beyond the time allotted. When the trial is complete, the time will be evaluated by the Regional Coordinator. The team will lose one point for every five minutes—or fraction thereof—of time in excess of its allotment.

Viewing of Score Sheets by Teams

Viewing of the score sheets is done at the discretion of the regional coordinator(s). Each team will have the right to view their score sheets for each round. Teams may only view score sheets after the completion of the second regional round. This should be done one team at a time. Teams are not allowed to take score sheets with them or make any markings to the score sheets. Teams may view score sheets only in the presence of the regional coordinator(s).

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\(^1\)Note that coaches and team members may not communicate between rounds.
**MISSION**

The Mission of the American Association for Justice is to promote a fair and effective justice system—and to support the work of attorneys in their efforts to ensure that any person who is injured by the misconduct or negligence of others can obtain justice in America’s courtrooms, even when taking on the most powerful interests.

**ABOUT TRIAL LAWYERS**

Trial lawyers ensure access to the civil justice system for the powerless in America: working families, individual workers, and consumers who often lack the resources to take their grievances to court.

Trial lawyers play a valuable role in protecting the rights of American families. They champion the cause of those who deserve redress for injury to person or property; they promote the public good through their efforts to secure safer products, a safe workplace, a clean environment and quality health care; they uphold the rule of law and protect the rights of the accused; and they preserve the constitutional right to trial by jury and seek justice for all.

Some of the types of cases our attorneys handle include:

- A child paralyzed after being struck by a drunk driver;
- A young woman unable to have children because of a medical mistake;
- A person denied a promotion due to racial discrimination;
- An elderly man injured in a nursing home; and,
- A community whose water was made toxic by a local manufacturer.

**ABOUT AAJ**

As one of the world’s largest trial bars, AAJ promotes justice and fairness for injured persons, safeguards victims’ rights—particularly the right to trial by jury—and strengthens the civil justice system through education and disclosure of information critical to public health and safety. With members worldwide, and a network of U.S. and Canadian affiliates involved in diverse areas of trial advocacy, AAJ provides lawyers with the information and professional assistance needed to serve clients successfully and protect the democratic values inherent in the civil justice system.
AAJ LAW STUDENT MEMBERSHIP BENEFITS

Law Student Resources
Visit www.justice.org/lawstudents for information on law school scholarships and networking opportunities. We make communication between law students nationwide easy with our Law Student list server—also accessible through the Law Student Information Web Page.

AAJ’s Annual Student Trial Advocacy Competition
You will be eligible to compete in AAJ’s annual Student Trial Advocacy Competition (STAC), the nation’s premier mock trial competition. The winning team receives complimentary airfare, hotel accommodation, and registration for AAJ’s Annual Convention. Each team member also receives a $2,000 Stanley Preiser Law Student Award for Trial Advocacy sponsored by the Melvin M. Belli Society and tickets to the Belli Society black tie dinner, held during AAJ’s Annual Convention.

AAJ’sAuthoritative Legal Publications
Stay up-to-date with your subscription to TRIAL, AAJ’s award-winning monthly magazine. Your monthly TRIAL e-mail is full of information every well-rounded law student should know, featuring analyses of up-to-date news, cases, and trends in litigation.

Law Student Chapters
Chapter programs contribute to your law school experience and provide resources for your future legal career. AAJ works closely with student chapters and provides lecturers and program ideas. If you are interested in working with AAJ to start a chapter at your school, contact Nyounti Tuan at nyounti.tuan@justice.org.

Networking and Education at Conventions
Attend AAJ’s Annual and Winter Conventions, where you will learn about the hottest litigation areas and network with attorneys, judges, and other law students. Enjoy 11 education programs at AAJ’s Winter Convention and nearly 50 programs at Annual Convention, including the Law Student education program with presentations geared specifically to you. You will have the opportunity to learn from those at the top of their field, attend social events, and meet attorneys in all stages of their professional careers. Visit www.justice.org/convention to learn more.

AAJ Education Throughout the Year
Attend AAJ Continuing Legal Education courses for only the price of the reference materials. AAJ Education seminars and teleseminars will give you insight into different practice areas, how to be an effective advocate, and prepare you for life after law school. You will meet practicing trial lawyers from all over the country and make valuable contacts for your future career. Visit www.justice.org/education or call 800.622.1791 or 202.965.3500, ext. 8612 for more information.

Scholarships
AAJ currently has five scholarships designed for law students. The application requirements for each scholarship are different, ensuring all law student members have a chance to apply. While some scholarships offer tuition help, others offer subsidized attendance to AAJ’s educational programming. More information on scholarships can be
found on the Law Student Information Web Page.

**How to Join**
Yearly dues are reduced to $15 for law students. Call AAJ’s Membership Department at (800) 424-2727 or visit [www.justice.org/lawstudents](http://www.justice.org/lawstudents) for more information.
IN THE DISTRICT COURT OF STEELTON  
THE UNITED STATES OF AMERICA  

QUINN CHASE,  
Plaintiff,  

v.  

THE STEELTON PIT BULLS  
HOCKEY CLUB, INC.,  

Defendant.  

COMPLAINT  

AND NOW, comes Plaintiff, Quinn Chase, by and through his undersigned attorneys, and files this Complaint, the following of which is a statement:  

1. Plaintiff is an adult individual who resides at 941 Penn Ave., Pittstown, in the District of Steelton.  

2. Defendant is a District of Steelton corporation with its principal place of business at 1 Icetown Place, Pittstown, in the District of Steelton.  

3. Defendant is a hockey club in the All-American Junior Co-Ed Hockey League.  

4. During the 2008-2009 season, Plaintiff was a first line right winger on Defendant's hockey club.  

5. On September 4, 2008, Plaintiff was injured in a hockey game when a player from the opposing team initiated a blind-side hit, directly contacting Plaintiff's head.  

6. Plaintiff left the game and was examined by Defendant's athletic trainer, August Henry.
7. At all times relevant hereto, August Henry was an employee of Defendant, and was acting in the course and scope of his duty with Defendant.

8. Upon examination, August Henry determined that Plaintiff did not sustain serious injury and cleared Plaintiff to return to the game despite the fact that Plaintiff exhibited signs of a concussion.

9. Plaintiff relied upon August Henry's recommendation and returned to the game.

10. Plaintiff sustained a concussion when hit, but August Henry and/or Defendant failed to diagnose and treat the same.

11. Defendant performed no further analysis on Plaintiff after September 4, 2008 and before Defendant's next scheduled game on September 10, 2008.

12. During Defendant's game on September 10, 2008, Plaintiff received another hit to the head, at which time Plaintiff lost consciousness.

13. Plaintiff was taken to District of Steelton's Hospital where Plaintiff was diagnosed with a severe concussion.

14. Since September 10, 2008, Plaintiff has been unable to play hockey, suffering from severe headaches, loss of balance, light sensitivity, loss of memory and loss of coordination.

15. Plaintiff was not aware that Plaintiff sustained a concussion until an examination by the District of Steelton's Hospital medical staff in the weeks following the hit Plaintiff sustained on September 10, 2008.

**COUNT I**

Negligence

16. Plaintiff incorporates by reference the allegations of Paragraphs 1-15 of his Complaint as if set forth in their entirety herein.
17. Plaintiff originally suffered a concussion during the September 4, 2008 hockey game.

18. Defendant should have been aware that Plaintiff sustained a concussion as a result of the September 4, 2008 hit.

19. Defendant had a duty, through August Henry, to correctly diagnose Plaintiff.

20. Because Defendant failed to adequately diagnose Plaintiff, Plaintiff was permitted to play hockey with a concussion.

21. Because Plaintiff was already suffering from a concussion when Plaintiff received a blow to the head on September 10, 2008, Plaintiff sustained potentially career-ending injuries.

22. Had Defendant performed a thorough, adequate, and proper medical examination following the September 4, 2008 hit, Plaintiff would not have suffered the potentially career-ending injuries sustained when permitted to play during the September 10, 2008 hockey game.

23. As a result of Defendant's negligence, Plaintiff has been irreparably injured, having sustained career-ending injuries that include, but are not limited to, severe headaches, loss of balance, loss of memory, sleep loss, and loss of coordination.

WHEREFORE, Plaintiff, Quinn Chase, respectfully requests that this Honorable Court enter a judgment in Plaintiff’s favor and against Defendant, the Steelton Pit Bulls Hockey Club, Inc., in an amount greater than $75,000.

Respectfully submitted,

Dated: 9/9/2011

Lynn Cohen, Esquire
Attorney for Plaintiff
IN THE DISTRICT COURT OF STEELTON  
THE UNITED STATES OF AMERICA  

QUINN CHASE,            CIVIL DIVISION  
Plaintiff,              GD No.: 0607011  

v.  

THE STEELTON PIT BULLS  
HOCKEY CLUB, INC.,  

Defendant.  

ANSWER AND AFFIRMATIVE DEFENSES  

AND NOW, comes Defendant, The Steelton Pit Bulls, by and through its undersigned attorneys, and files this Answer and Affirmative Defenses, the following of which is a statement:  

1. Admitted.  
2. Admitted.  
3. Admitted.  
4. Admitted.  
5. Denied. Defendant denies that Plaintiff was injured during the September 4, 2008 hockey game.  
6. Denied as stated. Plaintiff temporarily left the game, and following an examination by August Henry, Plaintiff concluded that Plaintiff was able to return to the game, and Defendant is without knowledge or information sufficient to form a belief as to the truth of the averment regard what Plaintiff did or did not rely upon in arriving at the conclusion that Plaintiff was fine to return the game. As such, those averments are denied.  
7. Admitted.
8-10. Denied as stated. Plaintiff independently concluded that Plaintiff was able to return to the game on September 4, 2008 and did so without permission. In doing so, Plaintiff ignored August Henry’s instructions.

11. Denied. Plaintiff attended two team practices between September 4, 2008 and September 10, 2008, during which time Plaintiff made no complaints. Further, visual observations of Plaintiff during that time did not demonstrate that Plaintiff was suffering from a concussion or concussion-like symptoms.

12. Admitted in part. It is admitted that Plaintiff lost consciousness during the September 10, 2008 hockey game. Upon reasonable investigation and inquiry, Defendant is without information sufficient to affirm or deny the remaining allegations in Paragraph 12 of Plaintiff's Complaint. As such, those averments are denied.


14. Upon reasonable investigation and inquiry, Defendant is without information sufficient to affirm or deny the allegations in Paragraph 14 of Plaintiff's Complaint. As such, those averments are denied.

15. Upon reasonable investigation and inquiry, Defendant is without information sufficient to affirm or deny the allegations in Paragraph 15 of Plaintiff's Complaint. As such, those averments are denied.

COUNT I
Negligence

16. Defendant incorporates by reference the allegations of Paragraphs 1-15 of its Answer as if set forth in their entirety herein.
17-18. Denied as stated. Plaintiff independently concluded that Plaintiff was able to return to the game on September 4, 2008 and did so without permission. In doing so, Plaintiff ignored August Henry’s instructions.

19. The averments of Paragraph 19 of Plaintiff's Complaint constitute legal conclusions to which no responsive pleading is necessary.

20-22. Denied as stated. Plaintiff independently concluded that Plaintiff was able to return to the game on September 4, 2008 and did so without permission. In doing so, Plaintiff ignored August Henry’s instructions. Moreover, Defendant provided an adequate and professional examination of Plaintiff on September 4, 2008.

23. The averments of Paragraph 23 of Plaintiff's Complaint constitute legal conclusions to which no responsive pleading is necessary.

WHEREFORE, Defendant, the Steelton Pit Bulls Hockey Club, Inc., respectfully requests that this Honorable Court enter judgment in its favor and against Plaintiff, Quinn Chase.

AFFIRMATIVE DEFENSES

24. Plaintiff's claims are barred by the doctrines of comparative negligence, contributory negligence and assumption of the risk.

25. Plaintiff's injuries were caused by a superseding, intervening cause over which Defendant had no control.

Respectfully submitted,

Jack Dwyer, Esquire
Attorney for Defendant
IN THE DISTRICT COURT OF STEELTON  
THE UNITED STATES OF AMERICA

QUINN CHASE,                              CIVIL DIVISION

Plaintiff,

v.

THE STEELTON PIT BULLS 
HOCKEY CLUB, INC.,

Defendant.

STIPULATIONS

1. The District of Steelton utilizes the Federal Rules of Civil Procedure and the 
Federal Rules of Evidence.

2. Upon Defendant’s Motion for Summary Judgment, Judge Fullen determined that 
workers’ compensation, and any defenses provided under workers’ compensation law, could not 
be raised as an affirmative defense in this matter.

3. August Henry may provide expert testimony if proper foundation is set forth by 
the moving party.

4. August Henry is Defendant’s representative at trial.

5. The parties stipulate that Shane Edge is unavailable (as defined under Fed. R. Civ. 
Pro. 32) to testify at trial, and thus, his deposition transcript may well be admitted by the court 
upon a party so offering. The opposing parties reserve all objections to admissibility of all or 
any part of Mr. Edge’s deposition, however, including, but not limited to, hearsay, relevancy and 
lack of first-hand knowledge.

6. Quinn Chase wears a 2007 East End Helmets Dome Protector Pro helmet, and 
was wearing one on the September 4, 2008 and September 10, 2008.
7. Max Petrunya was not penalized for the hit on Quinn Chase.

8. Max Petrunya was later ejected from the September 4, 2008 game in which Max hit Quinn Chase as a result of fight with Shane Edge.

9. Video tape of the hit was sent to the league office to determine if Max Petrunya should be suspended.

10. Max Petrunya was suspended for three games following the league’s review of the video tape, although the league did not comment on the reason for the suspension.

11. Shane Edge was suspended for one game.

12. League rules mandate at least a one game suspension for fighting.

13. Max Petrunya received three previous suspensions during the season before being suspended following the September 4, 2008 game.

14. Prior to the time that Quinn Chase was hit, the league did not require teams to perform baseline concussion analyses.

15. The league required teams to perform a baseline concussion analysis on all players prior to the 2009-2010 season.

16. The Steelton Hospital has no record of August Henry calling the night of September 4, 2008.

17. The parties have stipulated that the documents identified as pre-trial exhibits are authentic, and that testifying witnesses can establish the additional foundational elements for admissibility during trial, as listed on the exhibits list. However, either party may raise a non-authenticity objection available under the Federal Rules of Evidence and/or Federal Rules of Civil Procedure with respect to the use of any exhibit.
18. All depositions are signed and sworn by each respective deponent as being accurate and authentic.

19. The expert reports were produced by the parties simultaneously before trial. Experts have reviewed all documents contained within this case file and may testify to the same, however, all expert testimony must conform to the Federal Rules of Evidence and/or Federal Rules of Civil Procedure.

20. The expert reports have been prepared and signed by each respective expert.

21. Plaintiff must call Quinn Chase and Chris Streib as witnesses. They may call the witnesses in any order they see fit.

22. Defendant must call August Henry and Sid Cosbey as witnesses. They may call the witnesses in any order they see fit.

23. This case is bifurcated into a liability phase and a damages phase. For purposes of this trial, the parties will try the liability phase only.

24. The parties may have their witness create demonstrative exhibits, including drawings, during the trial of this matter so long as the demonstrative is otherwise admissible under the Federal Rules of Evidence.

25. The parties may not bring to trial demonstrative exhibits prepared by their witnesses or counsel prior to the time that trial begins.

26. The parties may use enlargements of the exhibits that appear on the joint exhibit list so long as the enlargement is otherwise admissible under the Federal Rules of Evidence.

27. The parties may not alter in any fashion, other than enlarging, the exhibits that appear on the joint exhibit list.
28. Plaintiff’s Complaint and Summons were timely filed within the relevant statute of limitations.
DEPOSITION OF QUINN CHASE

Q. Please state your name for the record.
A. My name is Quinn Chase.

Q. Quinn, where do you live?
A. My home address is 941 Penn Ave. in Pittstown.

Q. Is that where you were living when you were injured in 2008?
A. No, during hockey season me and a teammate rented an apartment. We did that for the past three years. We find that it helps us build chemistry for when we are on the ice.

Q. Okay, I will get to that in a second, but first, are you married?
A. No.

Q. Do you have any children?
A. No.

Q. When were you born?
A. January 8, 1990.

Q. Did you graduate from High School?
A. Yes, but it was a close call. I put so much time into playing hockey that I did not dedicate enough time to my school work.

Q. Did you go to college?
A. No, I had several scholarship offers, but my family I decided that it would be better for me to play junior hockey as opposed to collegiate hockey. We thought this would help me play professionally one day.

Q. So the decision had nothing to do with your grades?
A. No. I mean, I am pretty sure that college would have been hard, but I had a full ride to 9 or 10 schools.

Q. Okay, I think that is enough background information, who was your roommate at your apartment during hockey season?

A. Shane Edge.

Q. How long were you and Shane Edge roommates?

A. I told you, three years.

Q. I just wanted to make sure that there was nobody else out there that I should know about. Do you still live with Shane Edge?

A. No, I moved back home with parents so that they could help take care of me.

Q. What position do you play?

A. I don’t play anything right now. I was a forward, I played right wing.

Q. Sorry about that, I meant no disrespect. Now you are going to have to excuse me because I do not know much about hockey, what other positions are there?

A. Sure, there are three forwards. A center, a left wing and a right wing. There are two defensepeople and a goalie.

Q. I am pretty sure I know what a goalie does, but can you tell me the difference between a forward and defenseperson?

A. A forward is generally your offensive player, while everybody on the ice has to play defense when the other team has the puck, the forwards generate most of the offense. There are three forwards. A center, a left winger, and a right winger. The center usually leads the team’s attack when they are trying to score a goal; the center takes part in most of the face-offs; he or she controls the puck and tries to score or pass it to a teammate
who is in a better position to score a goal. The wingers flank the center and help make up
the offensive attack. A defenseman or woman, on the other hand, is one of two players
who make up a team’s defensive unit. They usually play in or near their defensive zone
to help the goalie guard against attack. When the forwards get the puck into their
offensive zone, the defensepeople will station themselves at the blue line, which is where
the offensive zone begins, to help control the puck and prevent the other team from
getting a breakaway into their offensive zone.

Q. Thank you. What is a line?
A. A line is a group of players. An offensive line would be one center, a left winger and a
right winger. A defensive line would consist of two defensemen or women.

Q. Okay, what is the difference between the first line, the second line and so on?
A. The first line is usually your best players. Sometimes lines are made of people who play
well together. Sometimes teams have lines made up of their goons whose only job is to
go out and cause as much pain and damage, sometimes within the rules, sometimes
outside of the rules, to the other team's players. That is how I got hurt.

Q. Okay, we will get to that in a minute. Tell me about your position on the hockey team, I
understand you are quite talented.
A. I was talented. Now I am a mess. Sometimes I can't walk, stand or even sit. My life is
living nightmare these days.

Q. I understand, but I need to know about what type of player you were before you got hurt.
A. In 2008, I was ranked by several publications as one of the top five players who would
have been available in the 2010 NHL entry draft. Sporting Illustrations magazine listed
me as the third top offensive player available, and the top right winger. Sporting News
Produced Everyday, or SNPE, the television network, said I was the player who could change the fortunes of a pro team.

Q. And now?

A. I can barely get out of bed some days. I have not skated in hockey gear in nearly one year. At the rate that I am going, I will be lucky to even get in the Ice Capades, let alone play hockey again.

Q. Tell me about the night you first received a concussion?

A. You mean the first concussion, or the first time I knew I actually had a concussion?

Q. Okay, let’s do it this way. I want to talk to you about the September 4, 2008 game against the Philtown Flayers. Is that alright?

A. Sure, what do you want to know?

Q. Okay, first was this an important game.

A. They’re all important.

Q. I understand, but in terms of the success of the team in the standings, did this game hold significance?

A. Well, as I said, they are all significant, but this was pretty early in the season. However, Philtown is our biggest rival, and we do not really like them, and they don’t really like us.

Q. Speaking of which, you don’t really like Max Petrunya very much, do you?

A. No, I would not say that. You can say that there is a rivalry, but I do not have any personal feelings about Max one way or the other.

Q. Max also played right wing, right?

A. Yes.

Q. And Max was pretty talented?
A. You could say that.

Q. In fact, several other hockey publications, including Hockey World magazine said that Max was the best player at right wing entering the draft that year?

A. Well, they are entitled to their opinion.

Q. And about five years ago, when you were selected to represent the United States in the Winter Goodwill Games, you were upset that Max was named the captain of that team, right?

A. I was not upset at Max, I was just upset that I thought I should have been the captain.

Q. Quinn, I am handing you what has been marked as Exhibit 1; this in an article from Sporting Illustrations magazine in which you discuss Max’s selection as captain, right?

A. Well, that is one of the things that I talk about.

Q. Yes, but you specifically stated, “Nothing against Max, but he is not the right person to lead to this team in international play. I mean, the guy is an animal.”

A. I said that, but come on, I was 16.

Q. Quinn, I am showing you what has been marked as Exhibit 2. You have a Tweeter account right?

A. Yes.

Q. And you post under the name “TheQuinnC” right?

A. Yes.

Q. And you would agree with me that Exhibit 2 is a copy of something you posted on Tweeter on September 3, 2008.

A. Yes.
Q. And this states, “Make sure you’re recording tomorrow’s game, going to lay the hurt on the Petunia.”

A. Yes.

Q. Who is the Petunia?

A. That is what we call Max.

Q. And in fact, you specifically went back into the game after you got hit on September 4, 2008, to get revenge on Max?

A. No, I went back in to help my team win, and because August Henry cleared me to play. I wish August hadn’t.

Q. I understand, but didn’t you tell Shane Edge that you were going to make Max pay for what you considered to be a cheap shot?

A. It was a cheap shot. And yes, I said that.

Q. And this was after Shane Edge told you he got into a fight with Max, and that both Shane Edge and Max had been ejected.

A. Shane said he told me that, but I was so excited that apparently I did not even hear him. I still do not remember it to this day.

Q. Tell me about the hit.

A. I was in the defensive zone. I just passed the puck and I was facing our goalie. I was in the face-off circle in the defensive zone nearest to the bench. I started to turn to the right to head up ice, and I guess Max was behind me lining me up because the next thing I remember was looking at the lights.

Q. Okay, that is a bit confusing and the court reporter can’t take that down, could you draw it for me.
A. Sure. Here is the rink, the center line, the two blue lines and the two goal lines.
Q. Can you mark those for me?
A. Yes. Here are the benches, and here is where the hit happened.
Q. Okay, can you mark yourself with a “Q” and show us which way you were turning?
A. Yes.
Q. Can you show us, to the best of what you remember or know, where Max was and where you got hit, marking Max with an “M”?
A. Yes.
Q. Thank you, we will mark this as Exhibit 3. Now, were you able to stand up on your own after the hit?
A. Not at first. But then I got back up and skated off of the ice.
Q. Didn’t you try to skate to Philtown’s bench?
A. A lot of people say that, but no, that never happened. I was just trying to get my feet back under me.
Q. Did you go back to your bench?
A. No, me and August went straight to the locker room.
Q. And what happened there?
A. Well, remember, I just took a pretty good hit, so things were a little bit blurry. I remember that August told me that it looked like I was done for night. We went to the training room. August asked me if I knew where I was, and if I was having difficulty seeing. I felt a little sick in my stomach, but that happens sometimes after a shift, especially toward the end of the period. It seemed like August was checking my reflexes, but I was ready to go back in.
Q. Do you know if August wanted you to play?
A. I don’t, I just remember August and coach had a discussion, I could not hear them, and coach left the room the screaming at August, that if I can play, he should get me ready.

Q. Did you tell August that you had a headache?
A. Yes.

Q. Did you tell August that you were nauseated?
A. No.

Q. Why not?
A. I told you, sometimes I feel that way toward the end of the period.

Q. Are they any other symptoms that you had that you did not tell August about?
A. I told August exactly how I was feeling.

Q. Except for being nauseated?
A. Yeah, except for being nauseated.

Q. So what happened?
A. I got up, grabbed some smelling salts, sniffed them and went back into the game.

Q. Do you know if August cleared you?
A. I thought so. At that time, August left the room and nobody stopped me from leaving.

Q. Did you ever tell August that you were going back into the game?
A. No, but there are 20 minutes between periods, August could have stopped me.

Q. Did you finish the rest of the game?
A. Yes.

Q. How did you feel?
A. My head hurt, but I thought I was fine.
Q. And you said that you felt fine?
A. Yes.

Q. How many points per game were you averaging that season before you got hurt.
A. Just under three points a game.

Q. How many points did you score the night of September 4, 2008?
A. None.

Q. When was the next game after September 4, 2008?
A. September 10, 2008.

Q. Did you go to the hospital at any point before the September 10, 2008 game?
A. No.

Q. Did you experience any concussion like symptoms following the September 4, 2008 game?
A. What do you mean?

Q. Did you have any headaches, were you nauseated, did you have any problems with balance?
A. Oh, well, I did have a pretty bad headache the following morning, and the sunlight hurt my eyes, but I never connected it to the hit.

Q. Anything else?
A. Not that I remember.

Q. Did the team have any practices before the September 10, 2008 game?
A. Yes.

Q. How many?
A. 2.
<table>
<thead>
<tr>
<th>Q.</th>
<th>Did you practice?</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.</td>
<td>No.</td>
</tr>
<tr>
<td>Q.</td>
<td>Why not?</td>
</tr>
<tr>
<td>A.</td>
<td>The first practice was the next day, but coach did not want me on the ice. Coach told me that I didn’t look that great. I really wanted to get back on the ice, but I sat out.</td>
</tr>
<tr>
<td>Q.</td>
<td>Did anybody tell you that you may have had a concussion?</td>
</tr>
<tr>
<td>A.</td>
<td>Not really, I mean, there were some news reports that said I had a concussion, but I generally do not pay attention to what the reporters are saying. August asked me if I was still seeing stars.</td>
</tr>
<tr>
<td>Q.</td>
<td>How did you reply?</td>
</tr>
<tr>
<td>A.</td>
<td>I laughed it off.</td>
</tr>
<tr>
<td>Q.</td>
<td>Did August attempt to perform a follow-up examination on you?</td>
</tr>
<tr>
<td>A.</td>
<td>No.</td>
</tr>
<tr>
<td>Q.</td>
<td>What about the fact that August requested that you come to the training room to check you out?</td>
</tr>
<tr>
<td>A.</td>
<td>I don’t remember that. I mean, I probably would have went if I was asked to, I was not practicing.</td>
</tr>
<tr>
<td>Q.</td>
<td>But you did not get any treatment the day following the game related to the prior night’s injury?</td>
</tr>
<tr>
<td>A.</td>
<td>No, but I did not know I was injured.</td>
</tr>
<tr>
<td>Q.</td>
<td>You said there were two practices before your next game, did you practice the second time?</td>
</tr>
<tr>
<td>A.</td>
<td>No, I sat that one out too.</td>
</tr>
</tbody>
</table>
Q. Why?
A. It was the day before the game, and it was an optional skate.
Q. What does that mean?
A. It means that we don’t have to skate if we don’t want to do it.
Q. But didn’t your coach suggest that you get back out on the ice and make sure that you felt alright?
A. Yes, but I was feeling a little sluggish that day, so I chose not practice. I felt like I was coming down with something like a sinus infection.
Q. Did you call a doctor about that?
A. Look, I have played with a broken foot, a torn labrum, a lacerated cheek and numerous other injuries. I was not going to let a cold stop me from playing.
Q. But you didn’t practice?
A. Well, that’s different; practice is certainly not a game.
Q. What happened during your next game?
A. I was hit in the head at the end of the third period and I was knocked out cold. I was told that I was in and out of it on the ice and in the locker room, but I really do not remember anything until I got to the hospital.
Q. What did you learn at the hospital?
A. That I had a concussion.
Q. And that was September 10, 2008?
A. Yes, but they said I was most likely playing with a concussion at that time that I was hit on September 10, 2008.
Q. Have you played hockey since?
A. No. I am not even close to putting the pads back on. I just started skating again a few months ago.
DEPOSITION OF AUGUST HENRY

Q. Please state your name for the record.
A. My name is August Henry.

Q. When were you born?
A. January 8, 1977.

Q. August, where do you live?
A. 310 Grant St., Apartment 2901.

Q. Are you married?
A. I am. My spouse’s name is Chris Henry. We got married on April 30, 2004.

Q. Do you have any children?
A. No, but we have two dogs.

Q. I don’t think those count. Did you graduate from high school?

Q. Did you go to college?
A. Yes, after high school, I went to the University of Steelton where I got my degree in athletic training in 2000.

Q. Is that a five year program?
A. No, I just took five years to graduate.

Q. Any particular reason?
A. I enjoyed my time in college a little bit too much. Plus I failed a couple of my athletic training classes and I had to repeat them. I played sports and I let my studies slide sometimes. I retook the classes and passed with flying colors.

Q. Okay. Do you have any other degrees?
A. No, but I do take classes and attend seminars in developments in my field. I find it important to stay on top of these things, especially when dealing with athletes who don’t like to take, “no, you can’t play as answer.” The quicker they get back in the game, the quicker they are happy. Also, management does not like to see their investments on the sidelines.

Q. Investments?

A. From what I can tell, players are paid in this league, and some of them make pretty good money. But people may not come to a game if their favorite players are out, so sometimes these kids are not just seen as players but actually investments. Their presence on the ice put more paying customers in the seats. More people in the seats means more money and the ownership group always gets excited about more money.

Q. I will come back to that, but I first I want to talk to you about some of these classes and seminars that you said you attended. Did any of them concern concussions?

A. Yes.

Q. When is the first class that you attended that dealt with concussions?

A. Well, sometimes classes and seminars would play lip service to this issue, but in today’s climate, concussions are a big deal. When the league implemented the new concussion rules in the 2009-2010 season, all the league’s trainers underwent intensive training in spotting and addressing concussions. We have a bunch of new rules that force players to sit if we think they have a concussion. There was nothing like that before in the league. We also had to give all of our players a baseline concussion test.

Q. When was this seminar?

A. It was in March of 2009, after the 2008-2009 season ended.
Q. What is a baseline concussion test?
A. Okay, we use the ImPACT test, which stands for Immediate Post-Concussion Assessment and Cognitive Testing. It is a series of computerized concussion evaluation tests that measure the athlete’s memory, reaction time and symptoms. We do the first test when the athlete is not experiencing any concussion like symptoms so that we can compare those results to an athlete’s results if they exhibit concussion like symptoms. This gives us a better idea as to whether or not the athlete may be suffering from any sort of head trauma.

Q. Did you perform a baseline concussion test on Quinn Chase?
A. No. He was never healthy enough to perform one.

Q. Before the 2008-2009 season, did you have any training on concussions?
A. Nothing as specific as the course put on by the league.

Q. What do you mean by that?
A. Well, as I mentioned it before we touched on it college in some classes. Also, some of the seminars that I attended addressed head trauma.

Q. Were you aware of what symptoms were associated with a concussion before the league seminar?
A. Sure, I mean, I was generally aware of what to look for. I have had concussions myself, so I know what they feel like.

Q. Had you ever treated somebody with a concussion before Quinn got hit on September 4, 2008?
A. Maybe one or two, but not all that often.
Q. You mean to tell me that in all of your experience as a hockey trainer you only treated one or two concussions?

A. Well, that was my second year on a hockey team. I was a trainer for a minor league baseball team previously. There are not too many concussions in baseball.

Q. Tell me about the game on September 4, 2008, the one where Quinn was hit by Max Petrunya.

A. Sure. It was a pretty vicious hit, and one that was a blatant cheap shot if you ask me.

Q. Well, what happened after the hit?

A. Quinn went down hard but got back up and skated off of the ice. Some people said that it looked like Quinn tried to skate to Philtown’s bench at first, but it did not appear that way to me. I was watching Quinn pretty closely as I was trying to get ready for what to expect when Quinn got over the boards.

Q. And you didn’t think anything was wrong with Quinn at that time?

A. That’s not true at all. I thought to myself that the kid was done for the night, and that we should think about going to the hospital.

Q. But you allowed Quinn to go back into the game?

A. No, I did not. I never cleared Quinn to return to the game. I left Quinn alone in the training room so I could call the hospital to let them know we were coming in.

Q. You are aware that the hospital does not have any record of you calling?

A. I am aware of that, but that does not mean I did not call. I remember them telling me that they would be waiting to perform a CT scan.

Q. So you called the hospital to arrange for a CT scan, but somehow Quinn got back on the ice?
A. Look, I sat Quinn down on one of our training tables. Quinn seemed a bit dazed, but could correctly answer “who are you, where are you, what are you doing?” I checked Quinn’s vision, which was fine, and asked about his symptoms. Quinn did not feel nauseated, but Quinn did tell me that his head hurt. That seemed normal considering the hit that Quinn just took. Of course I have since learned of other tests that I could have performed at the league seminar, but I did not know about them at that time. Anyway, I told Quinn to wait there for me and I was going to check on some things. I also told Quinn that to should consider sitting out the rest of the game and Quinn protested. Quinn kept saying, I am going to get Max back at any cost. At that point, Shane Edge came by and told Quinn that he and Max got into a fight and they were both kicked out the game. By the time I got back from calling the hospital, Quinn was already back on the ice and participating in the warm-up skate.

Q. So let me get this straight, you left to call the hospital and when you came back, Quinn was already on the ice?

A. Yes.

Q. Wasn’t anybody watching Quinn?

A. I don’t know if you have ever been in a training room between periods of a hockey game, but we are more like a MASH unit then athletic trainers. I have assistants, but these folks are running around trying to help out players who have all types of cuts, bruises and breaks. I stepped into an adjacent room to make a call. I told him to stay put. Quinn just got up on his own and walked out.

Q. Did Quinn ever tell you about being nauseated when you were treating Quinn that night?

A. No.
Q. Would that have changed the manner in which you treated Quinn?
A. Most definitely. I would have certainly not permitted Quinn to go back into the game at that point.
Q. Why?
A. When you combine the headache with the nausea, that just spells trouble.
Q. Let me show you what I marked as Exhibit 4. Does this fairly and accurately represent the training facilities?
A. It does. I mean, it is a rough drawing, but it closely resembles them.
Q. Can you show us where Quinn was seated when you were checking on Quinn?
A. Quinn was right here.
Q. Okay, can you mark that with a QC?
A. Sure.
Q. Next, can you show us where you were when you were calling the hospital?
A. I stepped into my office so that I could hear well enough. The door was open. It is right here.
Q. Can you mark that with an AH?
A. Yes.
Q. Can you show us how you get back to the ice from where Quinn was seated?
A. You would have to go this way.
Q. Please mark that path with a dotted line.
A. (witness complies)
Q. Did you see Quinn take this path?
A. I did not even know Quinn was gone until I got back out.
Q. But didn’t you tell Quinn not to go back out and that Quinn was done for the night?

A. I said that I thought Quinn should take the rest of the night off and I called the hospital to make arrangements for some tests.

Q. So you never actually told Quinn not to go back into the game?

A. I thought I made it pretty clear to Quinn not to do so.

Q. But you never said you are out?

A. I never got the chance to. Quinn was gone before I got back.

Q. Well, you could have pulled Quinn out before the period started, right?

A. I watched Quinn skate. Seemed fine. I spoke with Quinn before the period started and Quinn responded normally. The only complaint that Quinn told me about at that time was the headache.

Q. Did you have it in your power to keep Quinn from going back in the game?

A. Yes, but at that point it did not seem necessary.

Q. Why did it not seem necessary?

A. I told you. Quinn did not appear concussed; Quinn was skating fine and wanted to play. If I thought at that point after my observations, combined with my earlier examination, that Quinn was in danger or injured, I would have pulled Quinn.

Q. Who is Chad Shannon?

A. He is the coach.

Q. Did Coach yell at you during the intermission to put Quinn back on the ice?

A. Not that I recall. I don’t usually talk to Coach Shannon between periods unless there is something seriously wrong with a player.

Q. Could you have forgotten speaking with Coach?
A. Sure, I mean anything is possible, but I remember that night pretty well.

Q. Did you speak with Quinn after the game?

A. I did. I wanted to see if Quinn was experiencing any further symptoms.

Q. And?

A. Quinn only mentioned a headache, although Quinn did not drive home, which was unusual.

Q. Why is that unusual?

A. Quinn has this thing—Quinn gets into the car and drives straight home after every game, and has been doing it as long as I have known Quinn. But that night I guess some of the other players convinced Quinn to go out.

Q. Do you know where they went?

A. I have no clue.

Q. So you could not tell us what Quinn did that night?

A. You would have to ask Quinn.

Q. Did you speak with Quinn the next day?

A. I did.

Q. And what did you discuss?

A. I wanted to perform a follow-up examination and see how Quinn was doing. Quinn seemed a bit groggy and confused, but I just attributed it to having been out the night before.

Q. I thought you said you had no idea what Quinn did that evening?

A. I don’t but, come on, a couple of kids in their twenties or so...I used my imagination.
Q. So you never thought that Quinn may have been showing signs of a concussion at that

time?

A. That’s why I met with Quinn. I wanted to make sure there were no lingering effects.

Q. What did you learn?

A. That Quinn had a headache.

Q. Still?

A. Yes, and was a bit lethargic, but Quinn assured me that everything was fine. I still held

Quinn out of practice anyway as a precautionary measure.

Q. And you never sent Quinn to the hospital for any work?

A. I did not believe that it was necessary. We did not have another game for a few days, so I

wanted to see how Quinn would respond with some rest. Besides, Quinn kept telling me

that everything was fine.

Q. When was the next game?

A. September 10.

Q. Did you check Quinn before the game started?

A. Quinn skipped the optional skate the day before the game, but fully participated in warm-

ups. I spoke with Quinn before and after the warm-ups and Quinn told me there were no

more of the headaches. There were no other concussion symptoms present either. That

is why it was so surprising that some expert who never even saw Quinn said Quinn had a

concussion that night that was lingering from the Petrunya hit. There was no way Quinn

had a concussion before that game.

Q. I’m sorry, but what was that motion that you made, were those air quotes when you said

expert?
A. Yes, they were. I know Quinn and I am good at my job. There is no way I would have
put that kid in harm’s way. Besides, Quinn is the one who did not listen to me. I tried to
convince Quinn to sit out of the rest of the Philtown game, but Quinn is the one who ran
back on the ice.

Q. What happened to Quinn during the September 10, 2008 game?

A. Quinn took a clean hit against the boards—he head got caught on the glass, and Quinn was
knocked out. It was not a particular hard hit, I have seen Quinn take much worse. Quinn
just crumpled into a heap right on the ice. The refs stopped the game and I ran out to see
what happened. Quinn was out cold. When Quinn finally came to, Quinn had no idea
about where we were or even answer, “Who are you?” for that matter.

Q. What happened next?

A. Quinn was taken to the hospital and diagnosed with a severe concussion. The hospital
thought Quinn may have been suffering from some head trauma already when Quinn
took that hit, but they were not certain. I just hope the kid gets better.

Q. Have you talked to Quinn since?

A. Not really. Because of this lawsuit, my lawyers have advised me not to speak with
Quinn.

Q. Thank you August, that is all that I have for you.
DEPOSITION OF SHANE EDGE

Q. Please state your name for the record.
A. Shane Edge.

Q. Where do you live?
A. Right now I am sharing an apartment with Quinn Chase. We live at Apartment 102, the Canterbury Building in Pittstown.

Q. Were you living with Quinn during the 2008-2009 season?
A. Yeah. I have been living with Quinn for some time now.

Q. What do you do for a living?
A. I play junior hockey with the Steelton Pitbulls.

Q. Are you paid?
A. Yes, I am. It’s not much, but I hope to make up for that when I make it into the NHL.

Q. So you want to play professionally like Quinn does?
A. I do, but it is going to me more difficult for me. I mean, it was going to be more difficult for me. Before Quinn was injured, Quinn was one of the greatest hockey players, male or female, I have ever seen. A lot of people thought Quinn was the best born American player in the history of the game, and that is saying a lot when you consider that would put Quinn in the ranks of Jeremy Roenick, Brett Hull and Mike Modano.

Q. Why did you say it was going to me more difficult?
A. Have you seen Quinn? That kid may never play the game again. It’s a good thing we live together. I have been helping Quinn with stuff that all of the time.

Q. What kind of stuff?
A. Getting to the doctors. Driving Quinn to appointments. Quinn forgets a lot of things now, and the headaches are driving Quinn crazy.

Q. During the 2008-2009 season, did you play on the same team as Quinn?

A. Yes, we were both on the Steelton Pitbulls.

Q. Did you play in the game against Philtown on September 4, 2009?

A. Yes. That was the night that Quinn got hurt. It was also the night that I got suspended?

Q. We’ll talk about that in a second. Did you see the hit applied by Max Petrunya on Quinn?

A. Yes.

Q. Were you on the ice?

A. No. I play on a different line.

Q. Can you describe the hit?

A. Hit? You mean cheap shot. Quinn was turning to skate up ice and Max had Quinn lined up. I can’t believe a penalty was not called. Max hit Quinn right in the head and Quinn went down. Everybody except for Quinn saw that coming.

Q. What happened after the hit?

A. Quinn was dazed. I mean, the kid tried to skate to Philtown’s bench.

Q. Are you sure about that.

A. That is what it looked like to me. I know that other people saw it differently, but that it was I witnessed.

Q. What did you next?

A. Look, there is a lot of bad blood between those two, and they have gone at it before. But they have always done so within the rules. Max was way out of line, and it did not seem
that Quinn was going to be able to do anything about it, so I made sure I got on the ice at
the same time as Max.

Q. Why?

A. Quinn is not only my teammate, but one of my best friends. Hockey is not like other
sports in that there is an unwritten code, and Max violated that code. Max had to pay the
price.

Q. And by paying the price you mean you were going to fight Max?

A. That is exactly what I meant. And that is exactly what I did. I got suspended and fined,
but nobody is going to do that to my teammate and friend.

Q. Did you speak with Quinn at all the rest of the night?

A. Briefly. At the end of the period, I went to training room to see if Quinn was alright.
Quinn did not seem that bad, and appeared normal. Quinn kept talking about going back
on the ice to take care of Max. I told Quinn that Max and I got ejected for fighting. I am
not sure if Quinn didn’t hear me or what, but the fact that Max was ejected did not seem
to set in. Quinn kept repeating to me, “I am going to get Max.”

Q. Did Quinn’s play for the rest of the game seem affected to you?

A. I don’t know. I was ejected, so I hit the showers early and I did not see the rest of the
game.

Q. Did Quinn make any complaints to you?

A. Quinn mentioned a headache, but that was it. I am pretty sure that Quinn may have
thrown up later that night, though.

Q. How do you know that.
A. Quinn usually drives straight home after the game, but we decided that after all of the nonsense that went on to go out for a couple of beers after the game. That in and of itself was pretty unusual. Quinn usually goes straight home and watches film. Well, Quinn disappeared into the bathroom, and when he came out, Quinn was just looking pale, with watery eyes.

Q. Did you tell anybody about this?

A. No, Quinn rebounded pretty quick.

Q. Did you notice anything else unusual that night?

A. Not really, but I left soon after.

Q. Didn’t you see Quinn back at your apartment?

A. No. I met somebody and went home with them. The only time I really saw Quinn in the next few days was before the September 10, 2008 game.

Q. Why did you not see Quinn until then?

A. Part of the suspension included a ban from practice. And, as I mentioned, I met someone that night and I pretty much spent the next few days with them.

Q. So the next time you saw Quinn was right before the September 10 game?

A. Yes.

Q. Did Quinn seem okay to you?

A. Other than mentioning a headache, Quinn seemed fine. Quinn did keep bringing up the headache, but I don’t know if Quinn did anything about it.

Q. Thank you Shane, those are all of the questions that I have.
November 30, 2011

Jack Dwyer
1122 75th Street
Pittstown, District of Steelton

Re:  Chase v. Steelton Pitt Bulls Hockey Club

Dear Mr. Dwyer:

You have asked that I review Quinn Chase’s file with respect to a lawsuit that Quinn Chase commenced against the Steelton Pitt Bulls Hockey Club. Specifically you requested that I determine if August Henry could have known if Quinn Chase sustained a concussion in the September 4, 2008 hockey game, and, concurrently, whether August Henry treated Quinn Chase appropriately following the blow to the head that occurred in that game. You also asked that I determine if the head trauma sustained by Quinn Chase in the September 10, 2008 game occurred as a result of a preexisting concussion.

In reviewing this matter, I have read the Complaint, the Answer and Affirmative Defenses, the Stipulations, the documents contained in the Joint Exhibit List, Quinn Chase’s deposition and all exhibits thereto, August Henry’s deposition and all exhibits thereto, and Shane Edge’s deposition and all exhibits thereto.

Upon my review of these materials, it is my opinion, within a reasonable degree of professional certainty, that August Henry could not have determined if Quinn Chase had a concussion following the blow to the head sustained in the September 4, 2008 game, and that August Henry acted reasonably in treating Quinn Chase in the moments, and days, that followed the hit. Further, it is likely that Quinn Chase did have a concussion prior to the September 10, 2008 game, and the injury resulting from the blow to the head sustained during that game could have been exacerbated if there was in fact a preexisting concussion.

First, it is important to note just exactly what a concussion is. Concussions are brain injuries. The brain is a soft organ that is surrounded by spinal fluid inside of the skull. Obviously, the skull is a very hard part of the skeletal system. This fluid essentially serves as a cushion that protects the brain from injury or movement inside of the skull. However, certain events can cause the brain to move inside this liquid, which in turn, causes it to strike the skull and sustain injury, i.e. a concussion. Concussions can be difficult to diagnose as there is no actual physical manifestation that can be seen such as a bruise or a broken bone on an x-ray. Many people erroneously believe that one must lose consciousness to sustain a concussion, however this is incorrect. A concussion can be sustained from any blow to the head.

However, there are several symptoms that are associated with concussions that permit diagnosis. Symptoms can range from the obvious to the subtle. They can subside within seconds, or they could last months or even years.
First, there are issues with memory. Somebody who is concussed may have trouble remembering things, they may not be able to remember new facts, or they may seem to be slower than normal. These symptoms may be observed through conversation with the individual, and by presenting them with questions concerning memory.

Second, there are some physical symptoms that may be present. The most common is a headache. Also, the individual may be nauseated or feel sick to their stomach. It is possible that the individual may experience blurred vision or dizziness, or that they may have trouble with their balance. They may also have light sensitivity or feel lethargic.

Third, there is an emotional component associated with concussions. The individual may feel angry or more aggressive than usual. Conversely, they may also appear to have a depressed effect, or appear to be anxious.

Finally, the individual may demonstrate changes in their sleeping pattern. They may sleep more than normal. Or, alternatively, it may be harder for the individual to fall asleep and stay asleep.

It is important to note that this list is not exclusive. Concussions present themselves different ways in different people. These are, however, the most common symptoms that may indicate that an individual has suffered a concussion. Sometimes after a person has sustained a concussion, they will develop postconcussive syndrome. Basically, this means that the individual may continue to experience the above described symptoms may continue.

In order to diagnose a concussion, the treating individual must interact with the injured person. There is really no other way to conclude that a person has been concussed. During the interaction with the person who may have sustained the concussion, the treating individual should ask questions about the injury; they should ask questions that test the individual’s ability to pay attention and the individual’s learning and memory. A treating individual may try to determine how quickly the person can solve problems. Of course, the treating individual should check strength, balance, coordination, reflexes, and sensation. In some cases, these tests may be followed by imaging tests such as a CT scan or an MRI.

The only way to really treat a concussion is with rest. If a person is suspected of having a concussion, they should not participate in physical activities until they feel symptom free. As noted above, this could occur within an hour or months. It really all depends on the person.

My understanding of the accident is that on September 4, 2008, Quinn Chase sustained a blow to his head during a hockey game. My review of the file materials demonstrates that Quinn was otherwise healthy before this event; although there are no medical records provided that support this conclusion. Quinn was apparently struck in the head by an opposing player in what has been described as being a hit outside of the rules of the game. Following the hit, Quinn was evaluated by the Steelton Pit Bulls trainer, August Henry, and was subsequently permitted to return to the game. In a game occurring a little less than one week later, Quinn sustained what appeared to be a rather innocuous blow to the head and has suffered from severe post-concussive
syndrome to this day. Records of Quinn’s admission to the hospital on September 10, 2008 suggest a pre-existing concussion, although that condition was never confirmed.

Based upon the symptoms described above, and applying my training and experience as a licensed and practicing athletic trainer, I have concluded that August Henry acted reasonably following the September 4, 2008 hit sustained by Quinn Chase for the following reasons:

1. August Henry immediately removed Quinn Chase from the game. After the hit, Quinn got up and skated to the bench. Instead of checking Quinn in a loud, noise filled environment such as at a bench in a packed ice arena, August immediately took Quinn to the training room. He did not permit Quinn to go back into the game until a thorough examination was performed.

2. August took the appropriate steps to evaluate Quinn’s situation. As I discussed, there are no readily apparent physical manifestations of a concussion or postconcussive syndrome, with some limited exceptions that I will address. August placed Quinn on an examination table where August asked Quinn questions about Quinn’s mental state. August asked Quinn about headaches, nausea and other related symptoms. Quinn reported a headache. A headache is evidence of a concussion, but it is not conclusive evidence in and of itself if an individual presents with a concussion and there are no other symptoms. August acted appropriately following this verbal history in calling the hospital to set up an appointment for a CT scan.

3. Quinn should have reported feeling nauseated to August. Nausea, like a headache, is a symptom of a concussion. If August had this information, it possibly could have led to keeping Quinn out of the game. Moreover, Quinn disregarded August’s advice by deciding to reenter the game. August requested that Quinn remain on the training table, but Quinn went back into the game against the advice of August. I admit I have never been an elite sports player, so I do not fully understand the mentality of a young player such as Quinn in such moments, but Quinn should have known better than to go back in the game. I realize that August never formally forbade Quinn from playing, but Quinn should have waited in the training room for further instructions from the trainer.

4. August acted appropriately after Quinn went back into the game. Although it would have been ideal for August to pull Quinn from the line up after Quinn disregarded August’s instructions, August acted appropriately by observing Quinn on the ice. Often times balance and coordination are the first things affected by a concussion. August reported that Quinn did not demonstrate any objective indications of loss of coordination during the warm-up skate. Rather, Quinn skated appropriately for Quinn’s skill level. August further followed the physical observations by discussing with Quinn any remaining physical symptoms. Quinn reported feeling fine other than a headache. As such, August acted reasonably by not pulling Quinn from the game at that time.

5. August’s treatment of Quinn in the days following the hit was satisfactory. Quinn was held out of the following practices and optional skate. Although Quinn reported having only headaches, it is my understanding that based upon the medical records in this matter, Quinn was
also feeling nauseated in the days following the hit. However, August cannot treat symptoms of which August is not aware, and the nausea was never reported by Quinn to August.

6. I believe that with the benefit of hindsight, Quinn was most likely concussed following the September 4, 2008 hit. However, Quinn did not present any observable physical manifestations of a concussion or postconcussive syndrome after being hit on September 4, 2008. As such, Quinn could not be treated because Quinn never relayed the nausea and refused to go to the hospital for observation. Sure, there were other tests that August could have performed but August did not learn of these tests until later that year at a conference on concussions. My understanding is that August acted in accordance with industry custom and standard in the evaluation of Quinn. At that time, the only person who was aware that Quinn may have had a concussion was Quinn.

Based on the following, it is my opinion, within a reasonable degree of professional certainty that August Henry acted appropriately in treating Quinn Chase. I reserve the right to supplement my report should additional information become available.

Very truly yours,

Sid Cosbey
Curriculum Vitae of Sid Cosbey

Education:

University of Steelton (1981) BS in Physical Therapy  
* Magna Cum Laude 

Work Experience:

University of Steelton, Director of Athletic Training Sciences (1999-present)

I am responsible for oversight, performance and the overall effectiveness of the University of Steelton’s School of Athletic Training. I teach students on the introduction to athletic training and I am responsible for supervising the four other professors in the department. In addition to my teaching duties I am the head athletic trainer for the University’s sport’s teams. I also provide legal consultations.

University of Steelton, Professor (1990-1999)

I taught several classes in the school’s athletic training department.


I was the head athletic trainer for all varsity and junior varsity sports.

Prior Legal Testimony:

I have been accepted to testify as an expert in over 75 cases. I have a split of work that equals approximately 90% for plaintiffs and 10% for defendants. My hourly rate for records review is $650, and the rate is raised to $950 an hour for testimony.
November 30, 2011

Lynn Cohen
31379 Webster St.
Suite 1995
Philtown, District of Steelton

Re: Chase v. The Steelton Pitt Bulls Hockey Club

Dear Ms. Cohen:

In response to your inquiry, I have reviewed the materials that you sent to me concerning the actions of August Henry, an athletic trainer for the Steelton Pitt Bulls. It is my understanding that August Henry had the opportunity to diagnose a concussion sustained by Quinn Chase during an athletic event on September 4, 2008, but failed to do so, leading to more severe injuries that were sustained at a later date. In this regard, you requested that I determine if August Henry acted appropriately with respect to treatment of Quinn Chase following a traumatic blow to the head, or, alternatively, if August Henry failed to determine if Quinn was indeed suffering from a postconcussive syndrome.

In reviewing this matter, I have reviewed the following materials

1. Quinn Chase’s Complaint;

2. The Steelton Pitt Bulls Hockey Club’s Answer and Affirmative Defenses;

3. the Stipulations;

4. All of the documents contained in the Joint Exhibit List;

5. The depositions (and exhibits) of Quinn Chase, August Henry and Shane Edge.

Based upon my review of the above-described items and my experience, training and education as an athletic trainer, I have concluded that Quinn Chase presented signs and symptoms of a concussion, and was suffering from postconcussive syndrome following the hit received on September 4, 2008. Although these symptoms may not have been apparent to Quinn Chase, August Henry, as the athletic trainer, should have been able to diagnose them.

It is my opinion that there is no question that a concussion can be difficult to spot because it is a brain injury. This is significant because, unlike other types of injuries that a trainer may be used to handling, a brain injury does not always show obvious physical signs. This is why it is so important to have a properly trained and educated athletic trainer as a member of any sports team. These individuals can spot and address the symptoms of a concussion and postconcussive syndrome before the player sustains any more damage, as is true with the present matter.
Most concussions result from a blow to the head, whether the head is contacted directly, or it comes into contact with a secondary object such as a wall or the ground. Also, a body blow can result in a concussion if the head is forced to move in a rapid back and forth motion. Because full contact sports such as hockey often involve such contact, it is very important that any person who is charged with the health of the players involved be aware of these symptoms and be able to recognize when a player presents with them.

A reasonable athletic trainer would be trained in such observations. It is my opinion that August Henry’s failure to obtain such training directly caused this injury. While August Henry claims to have taken some classes in school on the subject, August clearly testified in the deposition to attending seminars or classes that paid “lip service” to concussions in the years after graduation. Further, August Henry was previously a baseball trainer. While I agree that concussion do not occur as frequently in baseball, August should have become familiar with concussion and postconcussive syndrome upon taking the job as a trainer on a hockey team. If August had been adequately trained, August would have, or, at the very least, should have, been able to recognize that Quinn Chase was concussed in the September 4, 2008 game following the hit by Max Petrunya.

Nevertheless, despite these shortcomings, it seems from the documents that I reviewed that August Henry was aware that Quinn Chase should not have returned to the line-up the night of September 4, 2008 and/or during the September 10, 2008 game. August Henry observed Quinn Chase take a blow to the head that appeared to be result in obvious confusion. In the locker room, objective evidence demonstrates that Quinn Chase was confused, and that August Henry was aware that Quinn had a headache. While Quinn Chase did not inform August Henry that Quinn was nauseated, which is another symptom of a concussion, it does not change my opinion as there were other symptoms, such as Quinn’s headache and confusion that should have put August Henry on notice that Quinn had a concussion.

There is no reason to claim ignorance to symptoms of a concussion. Research concerning these injuries has increased immeasurably over the past 50 years. In fact, I ran a literature search on PubMed concerning articles about concussions which revealed that in the years between 1960-1969 where there were only 5 articles published, there were over 150 published articles between 2000 and 2004 alone. Additionally, concussions have gained notoriety in both the print and television medias, and have been a central point of discussion in contact sports such as football. There is no reason that August Henry could not have been aware of the symptoms of a concussion before the seminar given by the league in the winter of 2009.

August Henry maintains to not being at fault because Quinn Chase voluntarily decided to go back into the game. Again, this is a failure on the part of August Henry. One part of being an athletic trainer is that you must be ready to prevent an athlete from reentering a game or practice

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1 PubMed comprises over 20 million citations for biomedical literature from MEDLINE, life science journals, and online books. PubMed citations and abstracts include the fields of medicine, nursing, dentistry, veterinary medicine, the health care system, and preclinical sciences. PubMed also provides access to additional relevant Web sites and links to the other NCBI molecular biology resources. PubMed is a free resource that is developed and maintained by the National Center for Biotechnology Information (NCBI), at the U.S. National Library of Medicine (NLM), located at the National Institutes of Health (NIH).
when they are injured. While the athlete may protest that they are fine, often times the athlete displays an unnecessary desire to prove their toughness by playing. Whether this results from a lack of maturity or just stubbornness, all trainers are aware, or at least they should be aware, that an athlete may attempt to circumvent their instructions to sit. This is especially true of concussions as often times they result in disorientation. It is difficult to expect an athlete who has been concussed to make a reasoned decision when they may not have the mental faculties to do so.

August Henry claims to be justified in the decision to permit Quinn to reenter the game on September 4, 2008 based upon personal observations of Quinn Chase while on the ice. Specifically, August Henry states that when learning that Quinn had gone out for warm-ups, August observed Quinn and determined that Quinn’s skating, balance and coordination appeared normal. This again demonstrates August Henry’s lack of knowledge of concussions as an athlete may still have coordination and balance but nevertheless be suffering from a concussion. This is why proper training on this issue is so important, and demonstrates why August Henry failed Quinn Chase that night. When Quinn Chase explained to August Henry that the headache continued, there was no reason whatsoever for Quinn to be permitted to stay in the game. At that point, August should have taken Quinn to the hospital for the diagnostic tests.

August Henry’s failure to adequately assess Quinn continued in the days following the accident. Although it was appropriate to hold Quinn out of practice, August should have proceeded with diagnostic testing, or, at a minimum, sent Quinn for a follow-up appointment with a licensed medical professional when Quinn’s headaches failed to resolve. Further, August Henry should have attempted to determine if Quinn was experiencing any additional symptoms. The medical records that I reviewed demonstrate that Quinn was feeling nauseated in the days following the hit. As I mentioned before, this too is a symptom of a concussion.

Based on the foregoing, it is my opinion, within a reasonable degree of certainty, that August Henry was negligent in his care of Quinn Chase in both his treatment of Quinn following the hit on September 4, 2008, and in the days leading up to the next game. This failure led to Quinn’s current injuries, and it may have prematurely ended Quinn’s career.

Very truly yours,

Chris Streib
Curriculum Vitae of Chris Streib

Education:

Philtown A&M (1994) BS in Physiology
  Top 10% of Class
University of Steelton (1996) Masters in Athletic Training
  Cum Laude

Work Experience:

Miami Porpoises, Head Trainer (2008-present)

I am responsible for oversight and performance of the Miami Porpoises athletic training staff. The Miami Porpoises are professional football team League of American Football. I am present every Sunday during games where I am responsible for evaluating professional athletes and their capacity to play in a full contact sport. I also attend all practices where I treat players who have been injured. I also perform preventive maintenance to insure that athletes are as healthy as they can be.

Philtown A&M, Assistant Trainer (1999-2007)

I served as an assistant to the head trainer on the Philtown A&M basketball team. I was responsible for evaluating players’ injuries and their ability to play


I was a physical therapist assisting in rehab of patients ranging from toddlers to the elderly. I was responsible for providing therapy for all manners of patients who were injured or seeking treatment after surgery.

Prior Legal Testimony:

This is my first time testifying as an expert, although I have testified in a criminal trial where I was accused of stealing a STEMS unit. I have also lectured extensively on treating concussions in athletes. I estimate that I have given nearly 35 speeches on the subject.

Articles Published in the Past Four Years:

Broken Brains: A Concussion Story, Sporting Illustrations (March 2009)

101 Uses for a Stim Unit, PT Weekly (September 2000)
IN THE DISTRICT COURT OF STEELTON
THE UNITED STATES OF AMERICA

QUINN CHASE, Plaintiff,

v.

THE STEELTON PIT BULLS HOCKEY CLUB, INC., Defendant.

JOINT EXHIBIT LIST

1. Sporting Illustrations Article
2. Tweeter Post
3. Diagram of September 4, 2008 hit
4. Diagram of Training Facilities
5. Helmet Recall
6. Hospital Records

WITNESS(ES) WHO MAY LAY A FOUNDATION FOR EXHIBITS

Quinn Chase: Exhibits 1-5
Chris Streib and Sid Cosbey: Exhibits 1 and 6
August Henry: Exhibits 1, 3-5
Ready for the World? —Wayne Lemieux

Two years ago Wolverine Will Johnson woke up in Helsinki with the difficult task of explaining just how the United States Winter Goodwill Games hockey team allowed a three goal lead to slip away in the quarterfinals against rival Canada. The American coach had no words. “What do you say, we just gave this one away. I am sorry, I can’t really talk to you guys right now.”

Flash forward to the present. With possibly the best team of American born hockey players under the age of 17 ever assembled, Johnson is looking for redemption. “This team is like no other,” said Scotty Bauman, director of talent for USA Hockey. “They are the deepest group of guys we have seen yet.”

While talent is certainly not a problem for Johnson, perhaps managing the egos just might be. Johnson is blessed with the two greatest hockey prospects born in the United States. Quinn Chase and Max Petrunya are talented, gifted, hardworking and just downright extraordinary players.

The problem...they both play the same position, and they don’t seem to get along. Their mutual disrespect for one another has only increased since Petrunya’s selection as the team’s captain.

“It was an obvious choice,” said Petrunya. “Quinn is a decent player, but is nowhere near my level.”

The sentiment is apparently mutual. Speaking to reporters after Petrunya was suspended from practice for two days for an illegal hit on Doc Limerick, Chase told Sporting Illustrations, “Nothing against Max, but Max is not the right person to lead to this team in international play. I mean, Max is an animal.”

Does John have what it takes to put these two talents on the same team in search of a common goal? As of right now, he is still speechless.
Make sure you’re recording tomorrow’s game, going to lay the hurt on the Petunia!

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SAFETY RECALL

To all of our valued customers, please be advised it has recently come to our attention that there may be a manufacturing defect in several of our Dome Protector Pro helmets from model years 2005-2009. This defect is not present in all helmets, however, we are issuing a general recall for the Dome Protector Pro from these model years. If you are currently in possession of such a helmet, you should stop using the same immediately and call the below number for instructions on how to obtain a replacement. Thank you for allowing us to continue to serve you and all of your head protection needs for the future.

Helmet Recall Hotline
1-888-555-DOME
STEELTON UNIVERSITY HOSPITAL

Name:  Chase, Quinn Francis  Social Security Number
Address:  941 Penn Ave.,  City: Pittstown  State: District of Steelton
Date of Birth: January 8, 1990  PCP: Amelia Joiner, M.D.
Height:  5’10”  Weight:  180 lbs.  BP:  120/80  Temp:  98.5F
Known Allergies: Penicillin, environmental

Current Symptoms: Loss of consciousness, memory loss, nausea, headache, disoriented, loss of balance, various hematomas throughout body

Diagnostics: Head x-ray negative for fractures

Assessment: Patient presents post-concussion sustained during a hockey game. According to guardian, patient lost consciousness for approximately 3 minutes, and was disoriented as to time and place upon waking. Patient unable to remove self from game under own power and was assisted off of the ice with assistance. Patient is currently disoriented although aware of name and place. Exhibiting signs of postconcussive syndrome. Patient history reveals that patient sustained a blow to the head during a game a few days ago. Patient most likely sustained a concussion at that time and was most likely concussed during game this evening.

Treatment Plan: Patient will be admitted for overnight observation. Patient will undergo various diagnostic testing including a CT scan. Patient will not participate in any further physical activities until such time that patient is cleared by a physician or athletic trainer.

Prognosis: It is too early to tell, though patient will most likely make a full recovery.

Physician: Gino Mulkin, M.D.

Dictated not read
IN THE DISTRICT COURT OF STEELTON
THE UNITED STATES OF AMERICA

QUINN CHASE,                              CIVIL DIVISION

Plaintiff,

v.

THE STEELTON PIT BULLS
HOCKEY CLUB, INC.,

Defendant.

JURY INSTRUCTIONS

1. The plaintiff claims plaintiff was harmed by the negligent conduct of the defendant. The plaintiff has the burden of proving these claims.

   The defendant denies the plaintiff’s claims. Also, the defendant claims that if the plaintiff was harmed, the plaintiff was negligent and the plaintiff’s own negligence was a factual cause in the causing the plaintiff’s injuries. The defendant also claims that the plaintiff assumed the risk of harm sustained. The defendant has the burden of proving these affirmative defenses.

   The issues for you to decide, in accordance with the law as I give it to you are:

   A. Was the defendant negligent?

   B. Was the defendant's conduct a factual cause in bringing about harm to the plaintiff?

   C. Was the plaintiff negligent?

   D. Was the plaintiff's negligent conduct a factual cause in bringing about his own harm?
2. In civil cases the plaintiff has the burden of proving his or her claims. The plaintiff must prove his or her claims by a legal standard called “a preponderance of the evidence.” Preponderance of the evidence means the claim is more likely true than not.

   If, after considering all the evidence, you find the plaintiff's claims are more likely true than not, you must find for the plaintiff.

   In this case, the plaintiff has the burden of proving the following claims:
   
   A. the defendant was negligent;
   
   B. the defendant's negligence was a factual cause in bringing about the harm/damages; and
   
   C. the extent of damages caused by the defendant's negligence.

3. The legal term “negligence,” otherwise known as carelessness, is the absence of ordinary care that a reasonably prudent person would use in the circumstances presented here. Negligent conduct may consist either of an act or a failure to act when there is a duty to do so. In other words, negligence is the failure to do something that a reasonably careful person would do, or doing something that a reasonably careful person would not do, in light of all the surrounding circumstances established by the evidence in this case. It is for you to determine how a reasonably careful person would act in those circumstances.

   In a negligence action, a defendant cannot be found negligent on the basis of an assessment of an individual’s condition that only later, in hindsight, proves to be incorrect, as long as the initial assessment was made in accordance with reasonable standards of care. In other words, the concept of negligence does not include hindsight.

4. In order for the plaintiff to recover in this case, the defendant's negligent conduct must have been a substantial factual cause in bringing about harm. To be a substantial factual
cause, the conduct must have been an actual, real factor in causing the harm, even if the result is unusual or unexpected. A substantial factual cause cannot be an imaginary or fanciful factor having no connection or only an insignificant connection with the harm.

To be a substantial factual cause, the defendant's conduct need not be the only factual cause. The fact that some other causes concur with the negligence of the defendant in producing an injury does not relieve the defendant from liability as long as its own negligence is a substantial factual cause of the injury.

5. A person who offers or undertakes to provide services needed for the safety of others or their property assumes a duty to carry out this promise or undertaking and is required to use reasonable care in performing it. When the person offering or undertaking to provide such services fails to use reasonable care in carrying out this offer or undertaking, and his or her negligence is a factual cause of injury to the plaintiff, that negligent person is responsible for the injuries caused if his or her failure to use reasonable care increased the risk of injury to the plaintiff or if the plaintiff suffered injury because of reliance on the defendant's offer or undertaking. If you find that the defendant undertook to provide a service that it should have recognized was necessary for the protection of others or their property and failed to use reasonable care, and that this failure to use reasonable care increased the risk of injury to the plaintiff, or that the plaintiff suffered harm because of reliance on the defendant's undertaking, you may find that the defendant's negligence was a factual cause of those injuries.

If there was a significant chance of avoiding injury, and the defendant's negligence destroyed that possibility, the defendant may be liable to the plaintiff. It is rarely possible to show with absolute certainty what would have happened under circumstances the wrongdoer did not allow to come to pass.
6. In general, a plaintiff must file suit within three years of the date he or she sustains his or her injuries.

An exception to this applies if you find that the plaintiff's suit was filed within three years of the date from which the plaintiff could have first reasonably discovered the injuries and that it was caused by the conduct of another person.

It is the plaintiff's duty to use reasonable diligence to properly inform him- or herself of the facts and circumstances of the injury.

You must decide if this lawsuit was filed within three years of the date from which plaintiff should have reasonably discovered the injury and its cause.

7. The defendant claims that the plaintiff was negligent. The defendant has the burden of proving by a fair preponderance of the evidence that the plaintiff was negligent and that the plaintiff's negligence was a factual cause of the plaintiff's harm.

The plaintiff does not have the burden to prove that plaintiff was not negligent.

8. The defendant claims that the plaintiff was negligent and the negligence was a factual cause of the plaintiff's injury. The burden is not on the plaintiff to prove freedom from negligence. The defendant has the burden of proving by a fair preponderance of the evidence that the plaintiff was negligent and that the plaintiff's negligence was a factual cause of his injury. You must determine whether the defendant has proven that the plaintiff, under all the circumstances, failed to use reasonable care for his own protection.

9. The defendant claims that the plaintiff assumed the risk of injury and the defendant has the burden of proving this was so. The elements of assumption of the risk are that the plaintiff fully understood the specific danger that caused the injury, appreciated its nature and
extent, and voluntarily chose to encounter it under circumstances indicating a willingness to accept the specific danger.

This is a subjective test. The question is not whether a reasonable person in the plaintiff's position would have understood the risk, but whether the plaintiff actually did.

The plaintiff's knowledge and understanding of the specific danger may be proven by circumstantial evidence. Direct evidence is not required.

Not all voluntary risk-taking amounts to an assumption of the risk. The defense applies only to preliminary and deliberate conduct with an awareness of the specific risk. It does not apply to conduct close in time and place to the accident. It is for you to determine whether the plaintiff had a choice about encountering the risks.

You must therefore determine whether the defendant has met its burden of proof. If you find that the plaintiff intelligently and voluntarily accepted the specific risk that caused the plaintiff's injuries, your verdict must be for the defendant.

10. In this case, Defendant claims that the Plaintiff’s injury was caused by an independent intervening cause and, therefore, that Plaintiff’s acts or omissions were not a contributing factor to the injury.

An intervening cause is the act of an independent agency that destroys the causal connection between the defendant’s negligence and the injury. To be an intervening cause, the independent act must be the immediate and sole cause of the harm. The intervening cause must be one that so completely supersedes the operation of Defendant’s negligence that you find that the intervening event caused the accident/incident/event or injury/loss/harm, without Defendant’s negligence contributing to it in any material way. In that case liability will not be established because Defendant’s negligence is not a proximate cause of the injury or harm.
However, Defendant would not be relieved from liability negligence by the intervention of acts of third parties, if those acts were reasonably foreseeable. By that I mean, that the causal connection between Defendant’s negligence and the injury is not broken if the intervening cause is one that might, in the natural and ordinary course of things, be anticipated as not entirely improbable. Where the intervention of third parties is reasonably foreseeable, then there still may be a causal connection between the Defendant’s negligence and the harm. The fact that there were intervening causes that were foreseeable or that were normal incidents of the risk created does not relieve the defendant of liability.

You must determine whether the alleged intervening cause was an intervening cause that destroyed the substantial causal connection between the defendant’s negligent actions (or omissions) and the injury. If it did, then Defendant’s negligence was not a proximate cause of the injury.

11. You are the sole judges of whether testimony should be believed. In making this decision, you may apply your own common sense and everyday experiences. In determining whether a witness should be believed, you should carefully judge all the testimony and evidence and the circumstances under which each witness has testified. Among the factors that you should consider are the following:

a. the witness’s behavior on the stand and way of testifying;
b. the witness’s opportunity to see or hear things about which testimony was given;
c. the accuracy of the witness’s memory;
d. did the witness have a motive not to tell the truth?;
e. does the witness have an interest in the outcome of the case?;
f. was the witness’s testimony consistent;
g. was the witness’s testimony supported or contradicted by other evidence?; and

h. whether and the extent to which the witness’s testimony in the court differed from the statements made by the witness on any previous occasion.

12. You need not believe any witness even though the testimony is uncontradicted. You may believe all, part, or none of the testimony of any witness.

13. A witness who has special knowledge, skill, experience, training, or education in a particular science, profession, or occupation may give an opinion as an expert as to any matter in which he or she is skilled. In determining the weight to be given to the expert's opinion, you should consider the qualifications and reliability of the expert and the reasons and facts given for the opinion. You are not bound by an expert's opinion merely because he or she is an expert; you may accept or reject it, as in the case of other witnesses. Give it the weight, if any, to which you deem it entitled.

14. In general, the opinion of an expert has value only when you accept the facts upon which it is based. This is true whether the facts are assumed hypothetically by the expert, or they come from the expert's personal knowledge, from some other proper source, or from some combination of these.

15. In resolving any conflict that may exist in the testimony of expert witnesses, you are entitled to weigh the opinion of one expert against that of another. In doing this, you should consider the relative qualifications and reliability of the expert witnesses, as well as the reasons for each opinion and the facts and other matters upon which it was based.

BY THE COURT

_____________________________________ J.
The Honorable Krista A. Fullen