

AMERICAN MOCK TRIAL ASSOCIATION

2000-2001
NATIONAL CASE

Gilbertson v. Everest Experience

by Rodney Carroll
O'Connor & Thomas, P.C.

WITNESSES

Note that, other than Merritt Gilbertson, whom we agreed would be a female and her deceased spouse would be a male, any of the witness can be played by a male or female. Optional Reading: Into Thin Air by John Krakauer.

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EXHIBIT LIST 24

Barlett "Bake" Baker, architect, best friend of P.J. Gilbertson

After first being duly sworn upon oath, Barlett "Bake" Baker hereby deposes and states as follows:

1 My name is Barlett Baker. My friends call me Bake. I am 43 years old and have lived in
2 Murfreesboro, Tennessee, all my life. I am married and have two children. I am an architect and I
3 have been engaged as an architect ever since I graduated from college in 1980.

4 I met P.J. Gilbertson in my first year of college in 1976, and we have been best friends
5 ever since. I accompanied P.J. on the trip to Mt. Everest that killed him/her. P.J. and I both
6 attended the University of Denver and had a mutual interest in outdoor activities. When we were
7 in college together, P.J. and I learned rock climbing through the Alpine Club at the University.
8 Together, we climbed in college approximately 25 times. Some of the climbs were made over
9 moderately difficult terrain in Boulder Canyon and El Dorado Canyon in Colorado. Both of us
10 really enjoy the mountains and enjoy the climbing experience.

11 After graduation, P.J. went on to law school and moved to Washington, D.C. I did not see
12 much of the Gilbertsons until they moved to Murfreesboro approximately ten years ago. It was
13 great when P.J. moved here because it allowed us to do some more climbing together. About two
14 or three times a year, P.J. and I would make weekend trips to Colorado, Wyoming, and Utah to
15 do rock climbs in different areas of the Rockies, the Tetons, and the Wasatch.

16 About five years ago, P.J. suggested that we attempt to do some mountaineering at high
17 altitude. Neither one of us had any experience with high altitude mountaineering, but we were
18 eager to see what it was like. P.J. saw an ad in an outdoor magazine for a guiding service to Mt.
19 McKinley and suggested we contact the service. We each took off two weeks from work and
20 traveled to Denali National Park in Alaska and, with the help of our guide, Glenn, climbed Mt.
21 McKinley in May of 1996. Mt. McKinley is 20,320 feet high. It was a real thrill to have made
22 that climb. It was also extremely exhausting and took a lot out of both of us. For both us,
23 climbing at high altitude was entirely different from the rock climbs we were used to. It was
24 much more physically draining.

25 The McKinley climb completely changed P.J.'s attitude towards climbing. In the fall of
26 1999, P.J. faxed a copy of a brochure to my office from an outfit called The Everest Experience.
27 After I received the brochure, I got a call from P.J. who wanted me to join in climbing Mt.
28 Everest in May 2000. I was concerned about the trip for two reasons. First, the prices of the
29 guided trip was \$70,000. Second, neither of us had any experience in high altitude climbing
30 except for our single trip to Mt. McKinley. When I explained this to P.J. over the phone, P.J. said
31 that the owner of The Everest Experience, Roge Holman, had offered to discount the price to
32 \$120,000 for both of us if we acted right away. Because P.J. was eager to climb Mt. Everest and
33 because of the discounted rate, I agreed to go along. Although I didn't know much about it, I also
34 had a fantasy of climbing Mt. Everest. P.J. and I sent our checks to Holman in January of 2000.
35 P.J. and I flew to Nepal together and arrived there on April 1, 2000. Roge Holman met us at the
36 airport. Roge seemed like a nice person and told us he had a lot of experience, both personally
37 and with his company, climbing the Himalayas. I don't recall telling Roge that we had limited
38 experience climbing at high altitude. But I do remember Roge telling us: "We've got this whole
39 climb down to a science. We've practically got a yellow brick road to the summit. I can almost
40 guarantee you that six weeks from now, you will be standing on top of the world."

41 The calendar attached to Exhibit 1 is a copy of our itinerary while we were in Nepal. The
42 entire month of April was reserved mostly for getting the members of the climbing team used to
43 high altitude. In addition to P.J. and me, there were four other people and another guide who
44 were going along on the climb. Neither P.J. nor myself had ever met these people before, much
45 less climbed with them. However, everyone was very friendly and pitched in together to make
46 sure that our climb was successful. The process of acclimatization was difficult, but especially
47 for P.J. P.J. was constantly tired and short of breath at any altitude above 5,000 meters
48 (approximately 16,400 feet). We talked about the killer headaches we both were experiencing
49 and how tired we felt. In the last week of April and in the first week of May, I saw P.J. coughing
50 up blood a number of times. I don't know if Holman saw P.J. in this condition, but it would have
51 been hard not to. When I asked if we could both make the climb, P.J. was always very upbeat and
52 enthusiastic about going on. It just wasn't in his nature to back down. I never wanted to show any
53 signs of weakness to the other members of the team because I was afraid we wouldn't be allowed
54 to make the summit. We knew we only had one opportunity at the summit. After paying all that
55 money, it would be terrible to turn back without making it all the way up. I think P.J. felt this
56 way too, but never told anyone except me how bad it felt.

57 We began our summit push on Sunday, May 5, 2000. Exhibit 2 is a copy of the route we
58 took on Everest. By the time we made it to Camp II on Tuesday, I could tell P.J. was feeling
59 pretty sick. Although P.J. never said anything to me, I know P.J. was having some doubts as to
60 whether s/he could make it to the summit. By the time our group made it to Camp III on
61 Wednesday, May 8, everyone was feeling the effects of the altitude. Everyone was feeling sick
62 and it was difficult for us to force ourselves to sleep and drink. Sleeping was nearly impossible
63 especially for P.J. We stayed at Camp III until midnight on Thursday, May 9. Holman had
64 explained to us the procedure for reaching the summit. We would leave Camp III at midnight
65 wearing headlamps to light our way. Holman would lead our group and make a trail to the
66 summit. Roge told us that each one of us should stay in the trail that Jan Darma Sherpa and Roge
67 had created, but we should keep our own pace onto the summit. Holman never gave us any
68 deadlines. He said that if we kept our current pace, there should be no problem with everyone
69 making the summit of Everest by noon on Friday, May 10.

70 Within an hour after we left Camp III, I could tell P.J. was having difficulty keeping up
71 with the group. I asked P.J. to turn back, but P.J. told me to keep going, and s/he would catch up.
72 Just breathing up there was unbelievably difficult even with the bottled oxygen we were using. I
73 don't know how I did it, but I followed Holman's trail and finally made the summit about noon
74 on Friday. I was completely exhausted. When I walked to the summit I met Holman who was
75 waiting for me. He congratulated me, we took a few pictures and then Holman asked me where
76 P.J. was. I told him P.J. was behind me and had asked me to go ahead. Holman then told me to
77 get back down as quickly as I could and that Holman would wait at the summit for P.J. I made it
78 back down the Hillary Step at about 1:00 in the afternoon. I saw P.J. making headway up. P.J.
79 looked terrible. I begged P.J. to come back down with me, but P.J. wouldn't do it. P.J. told me
80 that it was fine to keep going and that we would make it back down in plenty of time. I knew I
81 couldn't convince P.J. to come back with me, so I kept going.

82 I was almost to Camp IV at 5:00 p.m. on Friday when the storm hit. It was dusk and the
83 snow was blowing so hard that I couldn't see my hand in front of my face. The winds were

84 whipping so loudly that you couldn't hear a person shouting right next to you. I finally got to
85 Camp IV completely exhausted. Everyone from our climbing party was there except for P.J. and
86 Holman. When the storm finally broke the next morning, we started to go back up to see if we
87 could find either one of them. As we were making our way up the mountain, we saw Holman,
88 alone, coming slowly down. I can actually say that when I first saw Roge, Roge looked half dead.
89 Roge told us that P.J. had died on the mountain and that there was nothing we could do. I was
90 devastated, but I knew I had to get down from the mountain if I was to stay live. We made our
91 way back to Base Camp on Sunday, May 12. P.J.'s body is still up there on Everest and I had to
92 tell the Gilbertsons what happened. I felt guilty about my role in this whole thing at first. Merritt
93 Gilbertson was so mad at me, it only made things worse. Luckily, Merritt realized that suing me
94 was a mistake, and I was released as a party from this suit.

Dated this 1st day of July, 2000.

Barlett "Bake" Baker

Billi Johnson, professional mountain guide and mountain climber

After first being duly sworn upon oath, Billi Johnson deposes and states as follows:

1 My name is Billi Johnson. I have been retained as an expert witness in the action brought
2 by the Estate of P.J. Gilbertson. I am a professional mountain guide and mountain climber. I have
3 extensive experience climbing and guiding in the mountains of the Himalayas. I have climbed
4 K-2, Nuptse, Gasherbrum IV, Lhotse, and various other Himalayan peaks, including Mt. Everest,
5 which I have climbed six times. I have climbed Mt. McKinley in North America, Aconcaagua in
6 South America and the Vinson Massif in Antarctica. I am 45 years old and have been climbing
7 and guiding since I dropped out of high school at age 16. I have received the medal of excellence
8 from the International Union of Alpinists (UIAA). I am the owner of The Everest Challenge, a
9 professional guiding service on Mt. Everest for the past seven years. The Everest Experience, run
10 by Roge Holman, performs the same services we do. That's why I tried to hire Gene/Jean
11 Schneider. The Everest Challenge and The Everest Experience are the only two guide services
12 based in the State of Tennessee that offer trips to the summit of Mt. Everest.

13 I reviewed the Affidavit of Bake Baker and the Affidavit of Roge Holman and I believe
14 Roge Holman really screwed up in the way the trip was handled. I think Holman was negligent in
15 two respects. First, the clients on his trip were pushed too quickly to high altitude, and their
16 bodies couldn't adjust to the thin air. Holman should have recognized that Gilbertson was
17 suffering from acute mountain sickness and should not have permitted him to climb any higher
18 than Camp II. Second, Holman should have established a fail-safe point on the summit. By that I
19 mean if the members of The Everest Experience party had not reached a certain point, say the
20 Hillary step by 11:00 a.m., they should have been instructed to turn back and return to Camp IV.
21 Holman didn't do that. In my opinion, that helped kill P.J. Gilbertson.

22 Every person needs to adjust to higher altitude. Acclimatization is the normal process of
23 the body both adjusting to the change in availability of oxygen and correcting the disruption of
24 normal body chemistry that occurs. It is a slow process that takes place over a period of days and,
25 in some people, can take weeks if it occurs at all. When acclimatization lags significantly behind
26 ascent, various symptoms occur. Acute mountain sickness or AMS is your body telling you that it
27 can't stand the low oxygen environment at your current elevation.

28 Anyone who goes to high altitudes can get AMS. It is primarily related to the rate of
29 ascent. In reading Baker's affidavit, it is apparent to me that Gilbertson was suffering from
30 headache, loss of appetite, fatigue, dizziness, confusion, and difficulty sleeping. All of these are
31 classic signs of AMS. It is a golden rule among professional mountain guides that you should
32 never allow anyone to ascend with symptoms of AMS.

33 To compound the problem, I believe Gilbertson was also suffering from high altitude
34 pulmonary edema (HAPE). HAPE is essentially the build up of fluid in the lungs. The symptoms
35 of HAPE can include any of the following: extreme fatigue; breathlessness at rest, causing
36 productive cough, causing frothy or bloody sputum; gurgling or rattling breathing; chest tightness
37 with congestion; and blue or gray lips or fingernails.

38 Any reputable mountain guides who see these symptoms in their clients should know that
39 they should provide for their clients' immediate descent to a lower altitude. Based on the
40 description provided by Baker, Gilbertson was suffering from HAPE, and Holman should have
41 sent Gilbertson down immediately.

42 Finally, Holman should have provided a “fail-safe” time for the members of The Everest
43 Experience group. By allowing Gilbertson to continue on to the summit at the point when
44 Gilbertson had no reasonable chance of returning to Camp IV before dark, Holman allowed
45 Gilbertson to continue climbing into a state of exhaustion. I believe this also caused Gilbertson’s
46 death.

47 I understand that there is great pressure to bring a client to the summit. I, myself, take
48 great pride in the fact that we have one of the lowest fatality rates of any of the Everest guide
49 services.

Dates this 1st day of August, 2000.

Billi Johnson

Hillary Edmund, M.D., physician board certified in pulmonary medicine

After first being duly sworn upon oath, Hillary Edmund, M.D. hereby deposes and states as follows:

1 My name is Hillary Edmund. I am 41 years old. Currently I am a physician board certified
2 in pulmonary medicine practicing at University Hospitals in State Center, Tennessee. I have been
3 retains as an expert witness in the action brought by the Estate of P.J. Gilbertson.

4 In 1981, I received my B.S. from Colorado College and in 1985 was awarded my M.D.
5 from Loyola University Medical School. I returned to my hometown of Anchorage, Alaska where
6 I became licensed and completed a three year internship in internal medicine, followed by a two
7 year residency specializing in pulmonary medicine at University of Alaska Hospitals. I became a
8 Fellow of the American College of Pulmonary Medicine in 1996. I had already been board
9 certified by the American College of Internal Medicine in 1991. I co-authored an article entitled
10 "10 Ways to Keep It Hot When It's So Cold" in the January 1998 edition of Glamour Magazine.

11 In 1992, I was a volunteer physician at Himalayan Rescue Association Clinic (HRA) in
12 Periche Village, Nepal, which was a coup for an amateur climber like myself. HRA primarily
13 treats altitude-related illness (AMS) and educates trekkers about the insidious hazards of
14 ascending too high, too fast. It also provides free treatment to local Sherpas. Prior to the clinic's
15 existence in 1973, acute altitude sickness killed 2 out of every 500 trekkers passing through
16 Periche. Now, it is less than 1 death per 30,000 trekkers. We taught people that they must let
17 their bodies get accustomed to the change in altitude slowly. The process is called
18 acclimatization. You go up, come down, go up 2,000 feet higher, come back down to the original
19 altitude, and then go up again even higher and longer over a period of time. Acclimatization is
20 the key to a successful climb. Usually bodies adapt, but, frankly, there is no way to predict if a
21 healthy, strong trekker will succumb to the altitude.

22 When confronted with an increase in altitude, the human body adjusts in manifold ways
23 from increasing respiration to changing the PH balance of the blood, to radically boosting the
24 number of oxygen carrying red blood cells-a conversion that takes weeks to complete. Of course,
25 those trying to summit Everest are told that beyond 25,000 feet, the effects of low atmospheric
26 pressure upon the human body are so severe that really difficult mountaineering is hazardous. We
27 advised oxygen, although some climbers make it without bottled oxygen. There is extreme
28 fatigue. The oxygen depletion dulls the mind to the mental capacity of a slow child. We educated
29 trekkers to the warning signs, of severe headaches, light-headedness, constantly fighting for
30 breath, inability to digest food, nausea, vomiting and diarrhea-all side effects in varying degrees
31 for high altitude climbers. Because of the lack of oxygen to the brain, there is impaired judgment
32 and that is where trekkers get into trouble. They reach a hypoxically impaired state-not all, but
33 many.

34 In 1994, Kiwi Mountain Adventures, a New Zealand climbing outfit based out of Nepal
35 employed me as their base camp physician. I treated severe migraine headaches, some induced by
36 high altitude, others by the high ultraviolet rays of the sun that are not absorbed by the sparse
37 atmosphere. The harsh sunlight also caused a burn to the retina on occasion. Otherwise, I took
38 care of nosebleeds induced by altitude, thromboplebitis, hypothermia, shock, dehydration,
39 frostbite, and the usual broken bones and torn ligaments from falls. I saw grown men reeling
40 from vertigo after sitting up too fast, their heads spinning in the thin air environment. All bets are

41 off at high altitude. Sleep is fitful and when it does come there will be times when a climber
42 wakes up, lungs burning, gasping for breath. Cuts and scrapes refuse to heal. Appetite vanishes.
43 The digestive system, which requires oxygen to metabolize food, fails. These are the everyday
44 challenges of Everest and high altitude in general. On occasion, I also treated the more severe
45 problems of High Altitude Pulmonary Edema (HAPE) and High Altitude Cerebral Edema
46 (HACE).

47 While in Kiwi, I also kept physical forms on file and did a physical assessment of all
48 clients when they arrived at base camp. Physical conditioning is crucial. During my year with
49 Kiwi, the company turned two clients away based on my medical advice. I heard later that those
50 guys eventually persuaded Roge Holman to let them join his group that year, but I never heard
51 how they fared or if they summited. I do remember why we turned those two clients away,
52 though. One was due to a respiratory illness that he had been suffering from just before he
53 arrived in Nepal, and the other was due to a past history of phlebitis and a radial keratotomy.

54 We gave each client a pre-filled syringe of dexamethazone, sublingual compozine tablets,
55 and codeine tablets for emergency use. We were the only company at the time that did all that,
56 although almost all the other operations had a base physician who made certain that an
57 emergency medical kit was with the guide. As a team employee, I also had other non-medical
58 duties.

59 Johnson and Holman set up for business on Everest in 1994. I know of them by
60 reputation only, but I may have met one or the other of them at some time on the Mountain. I just
61 don't recall. I had other things on my mind that spring. We had just lost a client. She died of an
62 acute onset of HACE simultaneous to HAPE. HAPE is a mysterious, potentially lethal illness
63 that includes symptoms of coughing up pink-laced froth, stumbling like a drunk, and delirium.
64 The root of the problem is believed to be the paucity of oxygen compounded by the high pressure
65 in the pulmonary arteries, causing fluid to leak into the lungs. Kiwi guides brought this particular
66 client down the mountain as quickly as possible in a Gamow Bag after giving her 10 milligrams
67 of mifedipine under my radio order, acetazolamide, dexamethasone, and supplemental oxygen.
68 She arrived comatose. I started a lasix IV, 10 milligrams and tried to warm her body to stabilize
69 her. At least they got her down from Everest so her family could bury her at home-most people
70 who die on Everest are left at the place they expire. You would have to appreciate your own
71 mortality, climbing around dead bodies up there, perfectly preserved in the frigid cold.

72 I met my future spouse while at the Base Camp in 1994. Chris was working for
73 Associated Press doing a series on Mt. Everest. When Chris was offered the AP Bureau Chief
74 position in State Center, Tennessee, I looked for a position there and eventually began a private
75 practice in 1995. We married that year. My one regret is that I never got a chance to climb
76 Everest and, now, my climbing days are over. It's hard to imagine how that mountain can gnaw
77 at your soul, like the ultimate challenge. I never made it any higher than base camp, which is
78 located at 17,600 feet. There was one time when I made an emergency rescue at 19,000 feet in
79 May of 1993 that involved a helicopter evacuation to Kathmandu. At 20,000 feet, the air is too
80 thin and insubstantial to provide lift for the helicopter rotors, so we were lucky on that one. Still,
81 I was three miles above sea level at base camp where the oxygen is only half of what it is at sea
82 level. At summit, it is only 1/3 of sea level oxygen. Climbing to base camp seemed to be all my
83 lungs could tolerate. I don't know if I would have made it, even if I'd tried.

84 I learned about mountaineering in Wyoming at the National Outdoor Leadership School
85 where I was enrolled in Outward Bound when I was in college. High altitude climbing is heady
86 and addictive, but since Chris and I had our first child in 1996, I won't even think about
87 assuming such a dangerous risk as high altitude climbing. A little weekend climbing up the
88 mountains around here is enough for me. There is a reason it is called an extreme sport-you are
89 dancing with death! I have reviewed these affidavits: Baker, Holman, Whittaker, and Sherpa.
Dated this 1st day of September, 2000.

Hillary Edmund, M.D.

Merritt Thomas Gilbertson, surviving spouse of P.J. Gilbertson

After first being duly sworn upon oath, Merritt Thomas Gilbertson hereby deposes and states as follows:

1 My name is Merritt Thomas Gilbertson and I am bringing this action on behalf of the
2 estate of my deceased spouse, P.J. Gilbertson and also individually. I currently am an assistant
3 professor of accounting at Adams Community College, which is conducive to raising my two
4 children, especially now that I am a single parent.

5 I met P.J. while at University of Denver in 1973. We married right after graduation and
6 moved to the D.C. area. I worked on my MBA while P.J. was in law school and I passed my CPA
7 exam the same time P.J. passed the bar. We worked in Washington-P.J. was with the Justice
8 Department and I was at Anderson until 1990 when our first son, Richard, was born. Then, we
9 decided to move back to my hometown of Murfreesboro to be closer to our families. P.J. was
10 offered a position in litigation with Reilly, Calkins, Conlin & Lane. P.J. was an outstanding trial
11 attorney and, with the seven years of government work and an outstanding record at the firm, P.J.
12 made partner in 1993, two years before our daughter Anita was born. When we moved back, we
13 renewed our friendship with P.J.'s best college pal, Barlett Baker. Dana and Barlett were married
14 while we were still in college, and we were in each other's weddings. Their oldest daughter,
15 Mallory, baby-sits the kids. Bake told us everything that happened on Everest.

16 P.J. was an intelligent, hardworking individual who rarely complained about anything.
17 P.J. had the skill, drive and ambition that it took to be a successful trial attorney. P.J. always
18 found climbing to be challenging and P.J. loved a challenge. Overcoming obstacles, determined,
19 beating the odds, high energy, focused-those are all words and phrases that people used to
20 describe P.J. Dana Baker and I have never been the athletic types, so P.J. and Barlett were perfect
21 climbing partners for each other. They had started climbing together in college in Colorado,
22 mostly rock climbing. Five years ago they took a guided trip to Mt. McKinley. P.J. came back
23 exhausted, but exhilarated. P.J. had to take another full week off of work to recover, which was
24 not like P.J. at all. Also, it did not set well with the firm, and P.J. felt like a slacker for not
25 returning to work right away after having been gone for two months. P.J. started to dream about
26 summitting Mt. Everest before the big 4-0, but the demanding trial schedule at the firm would
27 not allow it. We had just moved into our dream house in the spring of 1999 (Bake had designed it
28 for us) when P.J. started talking about Mt. Everest nonstop. I balked at the price of \$70,000.00,
29 plus another \$10,000.00 for airfare, equipment, and expenses. That was an exorbitant amount for
30 even somebody who made \$200,000.00 a year like P.J. because you deduct those really high
31 income taxes, add on the \$4,000.00 a month mortgage on the new house, the car payments, and
32 the children's private school tuition of \$10,000.00 each plus all the other expenses and that is just
33 an incredible amount of money. I'm the one, as an accountant, who keeps track of all that family
34 records, financial and otherwise, and I knew that I did not want that kind of money coming out of
35 our stock portfolio when the market was so bullish. P.J. said Everest was "now or never." It took
36 some strong persuading, but I finally relented on September 1st, P.J.'s 43rd birthday. I reviewed
37 the brochure, and signed the check for \$60,000.

38 P.J. started to train by using a Nordic track and a Stair master in our new exercise room
39 and also walked to the office-about three miles-every day, including Saturday. This was exactly
40 the regimen P.J. used to prepare to climb Mt. McKinley. P.J. was careful not to overdue it, but

41 wanted to be in great shape for the climb and was in excellent shape for a 43-year-old. P.J. also
42 had the climbing equipment checked over and bought all new gear. P.J. was very big on safety.
43 However, I was the one that insisted that P.J. see our old family physician, Dr. D. T. Hendrich,
44 for a physical.

45 In February of 2000, Dr. Hendrich did an exam and made certain that P.J.'s inoculations
46 were up to date for the trip to Nepal and gave P.J. a clean bill of health. I asked P.J. if The
47 Everest Experience had a special form that Dr. Hendrich was to fill out and P.J. said no, I was the
48 one requiring the physical, not The Everest Experience. I mentioned this to Dr. Hendrich when I
49 took Anita in on March 10th for a virus she brought home from school. Dr. Hendrich expressed
50 surprise that The Everest Experience didn't require a physical, and admitted a lack of knowledge
51 with what conditions to look for in a high altitude climber. In 40 years of practice, Dr. Hendrich
52 had never done an exam on somebody who was climbing a major summit. Dr. Hendrich
53 reminded me that P.J. had a physical done by Glenn's Alaska Journey when P.J. climbed
54 McKinley five years ago, not Hendrich's office. Anyway, I wanted antibiotics for Anita because I
55 just knew that we would all get sick. Dr. Hendrich said that the cough, fever, sore throat, and
56 congestion would run its course in about 10 days and that antibiotics would not help. Sure
57 enough, we all got it. I missed two days of classes with a killer headache and congestion and
58 Richard stayed home from school for three days with a fever and sore throat. P.J. didn't miss a
59 day of work. That was just so P.J.

60 Dana and I had a big bon voyage party for our adventurers on March 28th. They were in
61 such high spirits and were just fine when they took off from the State Center Airport for their
62 flight to San Francisco, which was their gateway city to Nepal. P.J. hugged and kissed all of us
63 goodbye and promised to have Bake take a picture on the top of Mt. Everest with P.J. holding our
64 family portrait. P.J. said that our love would be there on the top of the world. P.J. promised to
65 call us from base camp on May 12th after the summit.

66 Our parents and the Bakers and some friends and neighbors all were gathered together on
67 May 12th awaiting the call. When Richard answered the phone, he jumped up and down and
68 squealed that it was Bake and Daddy/Mommy and he put it on speaker phone so that we could all
69 hear. But it was Bake, crying, telling us all that P.J. was left for dead on Mt. Everest. He was
70 sobbing and I thought he kept saying, "I'm sorry, I'm so sorry, it's all my fault." Everybody in
71 the room was in shock and Anita and Dana started to hug and were crying. I couldn't believe it..
72 After P.J. was killed, I researched Mt. Everest climbs. I know that The Everest Experience
73 violated safety practices. I read that there is a fail-safe deadline that I know The Everest
74 Experience did not enforce. I want to take every single penny that The Everest Experience and
75 Roge Holman have so that they can never negligently kill another person like they murdered my
76 darling P.J.

Dated this 14th day of June, 2000.

Merritt Thomas Gilbertson

Jan Darma Sherpa, mountain guide for The Everest Experience

After first being duly sworn upon oath, Jan Darma Sherpa hereby deposes and states as follows:

1 My name is Jan Darma Sherpa. I am 20 years old and have recently moved to
2 Murfreesboro, Tennessee. I like Tennessee plenty. The climate here is much warmer and the air
3 much richer than in my native Nepal.

4 My father was a Dutch agricultural consultant who died in a mountain-climbing accident
5 when I was very young. I come from a long line of Sherpa climbers on my mother's side of the
6 family. We are from the Rolwaling region of Nepal. Sherpas like me make excellent climbers in
7 the high altitudes of the Himalayas. Rolwaling Sherpas don't get altitude sickness like the foreign
8 climbers who come to summit Everest.

9 Over the last four years, since I was 16, I have assisted four different Everest expeditions.
10 On my first two expeditions, I was assigned to help at Base Camp. I never went higher than
11 Camp I. But then, I met Roge Holman, who asked me to join The Everest Experience expedition
12 in 1999. That year we had a very successful group of climbers who all made it to the summit
13 before noon on May 11. I made it to the summit too. Sherpas are not supposed to complain about
14 high altitude. It's like we are thought to be immune from the effects of being at 29,000 feet. I
15 grew up in Nepal and have always been fine, even at Base Camp, but I was really woozy when I
16 was at the summit. I could barely breathe and my legs were like spaghetti. My head pounded and
17 even though we were at the top of the world, I couldn't see clearly with the sun and my goggles
18 and my pounding head. Of course I didn't admit how I felt; that would be shameful. No Sherpa,
19 for that matter, no climber on Everest, ever gets to the summit by whining about minor
20 discomforts.

21 Last year, I was again hired by Roge to assist with The Everest Experience climb. He paid
22 me \$2500.00. There were six climbers in the group. They all looked like a bunch of
23 inexperienced canyon climbers at first. P.J. Gilbertson and his friend were so proud when they
24 took their expensive brand new boots out of the box! That pride lasted about a day, until their
25 feet were worn raw by the new boots that had not been broken in. Roge always tells climbers to
26 bring old, used stuff. It is the best.

27 My first impression of the group turned out to be wrong. They all quickly learned to use
28 their camprons and ice picks effectively and how to conserve their energy. But they never learned
29 to be a team. Our expedition in 1999 looked out for each other. The climbers pitched in to make
30 sure that this would be both a successful and safe climb to the summit. This group, in 2000,
31 didn't care one bit about each other. If one of these six were hit with a serac through the ice falls,
32 the other five wouldn't even care.

33 P.J. was always a little slower than the others. His so-called friend, "Bake" didn't even try
34 to help when it was obvious that P.J. was having trouble keeping up with the group, especially as
35 we went higher above Base Camp. Roge told me to stay back with P.J. to make sure P.J. was all
36 right. We had a radio and if we were ever in trouble, we would have turned around. On summit
37 day, though, I was assigned to mark the trail and establish the ropes up Hillary Step, so I couldn't
38 look out for P.J. You would have thought that Bake would have helped his friend, but he didn't.
39 That Bake was the biggest showboat in the group. He was first up Hillary Step after Roge and
40 me, and s/he though s/he sure was special! After Bake Barlett left the summit, I had to go down

41 again to help some of the other climbers. Fletcher Pierce, a family practice doctor from Ohio,
42 was having extreme difficulty and had decided the summit wasn't possible. I went to help Pierce
43 return to Camp IV. The funny thing was, I never even saw P.J. on the way back down, and I was
44 even searching for P.J. as I went. When I returned to camp and then learned that Roge and P.J.
45 were both somewhere up on Everest, I was crushed. I mean, you see bodies on Everest all the
46 time. Every year somebody gets killed by the cold or the air or a falling serac, and the bodies are
47 there for everybody to see as a warning. But P.J. and Roge were my friends. I would have done
48 anything to help either one of them always. But it was kind of dumb for Roge to let P.J. keep
49 climbing if he knew there was a storm coming.

50 I would sometimes see P.J. write e-mail home when he had access to satellite phones and
51 solar computers. P.J. let me use the computer and I even sent a couple of e-mails to his family, as
52 well as to Gene/Jean Schneider. I love computers. When I went to English School in Nepal, I
53 knew right away how to work them. I just didn't have much of a chance because we are so poor
54 in Nepal. When Professor Gilbertson asked me to come to Murfreesboro and go to school there,
55 it was like a dream come true! I love Tennessee and I would do anything for Professor
56 Gilbertson.

Dates this 27th day of May, 2000.

Jan Darma Sherpa

Roger "Roge" Holman, owner of The Everest Experience

After first being duly sworn upon oath, Roger "Roge" Holman hereby deposes and states as follows:

1 My name is Roge Holman. I am a professional mountain guide and the owner of The
2 Everest Experience. The Everest Experience is a professional guiding service that has guided
3 clients to the summit of Mt. Everest since 1994. It has its principal office and place of business in
4 Denver, Colorado where it is incorporated. Although, The Everest Experience has an office in
5 Murfreesboro, Tennessee where some of our business is conducted, most, if not all of the
6 transactions involving P.J. Gilbertson were conducted through our Denver office. I am forty-two
7 years old. From the time I was twenty-one until I was thirty, I was a stock broker in Denver,
8 Colorado. When I reached thirty years old, I decided that I wanted to pursue my lifelong dream of
9 a career in the outdoors and I became a professional mountain guide. I guided trips to many of
10 the 14,000 foot peaks in Colorado; and, in 1993, I came to Nepal to learn Himalayan climbing. I
11 personally have summited Mt. Everest eight times.

12 People have the impression that it is impossible to climb Mt. Everest. Obviously, nothing
13 could be further from the truth. I provided a copy of the route we have always taken when we
14 climb Everest. Everest has been climbed more than 700 times since it was first successfully
15 summited in 1953. Sixty-four ascents occurred in the 1996 climbing season alone. In the season
16 that ended in May of 1996, fifty-four people reached the summit of Mt. Everest, including
17 twenty-four Sherpa guides. It's true that there have been over one hundred and sixty-four deaths
18 on the mountain since 1953, including several in 2000. I know my clients don't need to
19 undertake a trip like this with a negative attitude so I never discuss that fact with them.

20 I gave Gilbertson and Baker a discount because I needed to fill up the May group right
21 away. If I didn't get them booked, I was in danger of canceling the May climb and losing a lot of
22 money.

23 P.J. Gilbertson and Bake Baker had a lot of climbing experience before they attempted
24 Everest. I remember them telling me that they had climbed, but I can't remember what their
25 climbing experience was. In any event, both of them seemed very fit. When I spoke with
26 Gilbertson and Baker over the telephone, in January, I instructed them to begin a strenuous
27 aerobic program coupled with bimonthly mountain/rock climbing trips, so it would be easier for
28 them to get used to high altitude. When I met them for the first time after they landed in
29 Kathmandu, they appeared to have followed my instructions. Prior to moving out, I had to
30 contact Schneider back in Tennessee concerning delays of equipment and supplies. In our trek to
31 Base Camp and in our acclimatization trips to Camp I and Camp II, Gilbertson did not seem any
32 more fatigued or weak than any of the other members of the group. If I had noticed any weakness
33 or excessive fatigue, I would have asked P.J. about it, but because I didn't notice, I assumed P.J.
34 was fine. I can tell you from my experience climbing in the Himalayas everyone shows signs of
35 fatigue, breathlessness, and coughing. No one makes it up that mountain without exerting some
36 physical toll. Prior to leaving Kathmandu we usually have a physician give a lecture on the health
37 hazards of high altitude climbing. These describe the symptoms associated with HACE and
38 HAPE. Attendance to the lecture is recommended.

39 As far as requiring Gilbertson to turn back because P.J. failed to make a "fail-safe" point,
40 people have to understand that it is impossible to be with a client every set up a 29,000 foot

41 mountain. I can't climb the mountain for them. I can provide the wherewithal, I can provide the
42 leadership and the direction, but they have to put one foot in front of the other. Nobody has ever
43 been carried up Everest. I believe that all members of the team should be personally responsible
44 for their own decisions as to whether or not they are physically capable of making it up the
45 mountain.

46 When we made our summit attempt on May 10th, we left Camp III shortly after midnight.
47 Each member of the group was using supplemental oxygen and as far as I could see, it appeared
48 as if we were making good progress towards the summit. I took the lead and my former employee
49 and fellow guide, Bobbie Whittaker, trailed the group. While the climb was difficult, I arrived at
50 the summit shortly before noon on Friday, May 10. Every member of the group except Gilbertson
51 reached the summit between noon and 1:00 p.m. on Friday. I told each member of the group,
52 including Bake Baker, to head back down as quickly as they could after they reached the summit.
53 I stayed on the summit until approximately 2:00 p.m. on Friday. I, personally, just couldn't take
54 any more time at that altitude and from my view, it appeared as if a storm was moving in.

55 I began my descent and found Gilbertson just beyond the Hillary Step. I could see that
56 P.J. was in very bad shape. Gilbertson was dizzy, complained of being disoriented and had a
57 difficult time walking. P.J.'s coughing fits appeared to make P.J. weaker. I tied P.J. into my
58 climbing harness and began to descend with P.J., but it was very slow going. We were only half
59 way down to Camp IV when the storm hit us just before dusk at about 5:00 p.m. The severity of
60 the storm front caught me completely by surprise.

61 Gilbertson and I were totally exposed on the side of Everest. I tried to dig a snow pit so
62 that we could get out of the wind, but I was too weak to get very far. By this time Gilbertson was
63 nearly unconscious. The winds whipped up to 70 miles per hour, and I know the temperature was
64 well below zero. That night I spent on the mountain with P.J. was the worst night of my life. By
65 morning Gilbertson appeared near death. I knew that in my weakened condition I couldn't drag
66 P.J. down, and I no longer had my medical kit. I untied myself from P.J. in the hopes that I could
67 get help at Camp IV and bring it back to our location. Somehow I was able to drag myself down
68 the mountain to Camp IV to get help, but by then everyone knew it was too late for Gilbertson.

69 I do the best I can to get all my clients up and down Mt. Everest safely. I know why
70 Johnson is saying these things about me. If Johnson can run me out of business, Everest
71 Challenge will be the only guide service left in Tennessee. Gilbertson's death was tragic, but P.J.
72 was climbing Mt. Everest. When you're climbing that mountain, you can't escape the risk; you
73 can't escape the uncertainty and the personal responsibility for your own safety.

Dates this 7th day of July, 2000.

Roger "Roge" Holman

Bobbie Whittaker, mountain guide, and former employee of The Everest Experience

After first being duly sworn upon oath, Bobbie Whittaker hereby deposes and states as follows:

1 My name is Bobbie Whittaker. Up until 2000 I worked as a guide for Roge Holman and
2 The Everest Experience. I am thirty-two years old and have been climbing and guiding since I
3 was eighteen years old. Today, I work as a ski instructor in Aspen, Colorado. I don't do any more
4 climbing. I guess I lost my taste for it after P.J. Gilbertson died.

5 Roge Holman is an excellent climber and guide. Holman is an extremely safety conscious
6 guide and climber and was always careful and conservative when I worked for The Everest
7 Experience. I would trust, and have trusted, my life to Roge in some very dangerous situations in
8 the mountains. The altitude above 8,000 meters (approximately 26,000 feet) is called the Death
9 Zone. It's called the Death Zone because humans cannot exist at that altitude for any length of
10 time. People don't appreciate how difficult it is to survive at that altitude. That's why Roge
11 normally requires a medical exam and prior mountain climbing experience. I don't remember
12 seeing all of that paperwork on Baker and Gilbertson, but they joined the group pretty late.

13 Everyone who climbs above Camp II on Mt. Everest is tired and has difficulty sleeping.
14 I've been on Mt. Everest at least eight separate times and there wasn't a single occasion when I
15 didn't have a bad headache.

16 On the trip that Gilbertson was on, I don't remember Holman asking any of the clients
17 how they were feeling. However, based on my experience with Roge, I know he would look at
18 the clients to see if they were experiencing symptoms of AMS, HAPE, or HACE. Of course,
19 everyone was constantly using bottled oxygen and wearing oxygen masks above Camp III at
20 24,500 feet.

21 When we made our final summit push on May 10, I caught up to Gilbertson at about
22 11:00 a.m. at the base of the Hillary Step. I knew that P.J. was moving slowly so I made a point
23 to ask P.J. "How are you feeling?" P.J. said "I am feeling okay and I know that I can make it to
24 the summit." I asked P.J. if I should stay, and P.J. said "No, just keep on going." I made it to the
25 summit about 1:00 and told Holman where I had seen Gilbertson and what P.J. had told me.
26 Holman told me to get back down right away and check on Gilbertson's progress. I reached
27 Gilbertson just as the Hillary Step at about 1:30 p.m. I asked P.J. "How are you feeling" and P.J.
28 said a funny thing. P.J. said "I feel fine, Glenn, I've never felt better. I know that once I make it
29 to the summit I'll be feeling even better. This is the most important thing in the world to me and
30 I've just got to make it." P.J. didn't look too bad but it was sort of hard to tell through the hood
31 and the oxygen mask. I told P.J. to keep going as quickly as possible and that Holman was up on
32 the summit waiting. That was the last I saw of Gilbertson.

33 Until I saw P.J. on our last push, Gilbertson didn't look any worse than any other member
34 of the team. P.J. never complained to me about physical condition nor did I ever see P.J.
35 complain to Holman. Climbing Mt. Everest is a dangerous thing to do, and people should take
36 responsibility for their decision to make that climb.

Dated this 2nd day of July, 2000.

Bobbie Whittaker

Andi Denman, meteorologist, owner of InfaStorm

After first being duly sworn upon oath, Andi Denman hereby deposes as follows:

1 My name is Andi Denman. I am 51 years old. Currently I am a meteorologist for National
2 Aeronautics and Space Administration (NASA) assigned to the Oceanic Processes Branch. I
3 received my bachelor's degree in engineering from the University of Dundee and a master's
4 degree from the University of Wisconsin, Madison in meteorology. I continued my studies at
5 UWM until receiving my doctorate degree in space science engineering in 1982. I spent the next
6 several years expanding upon the materials that I had assembled in my doctoral dissertation until
7 successfully completing my first book: Nowcasting from Satellites. Although not all that well
8 accepted in academic circles, my book took the world of broadcast meteorology by storm, and I
9 was deluged with job offers. I could have been a meteorologist in any one of the nation's top-ten
10 media markets at whatever salary I desired. However, when I received the job offer from NASA,
11 I had no doubt as to whether or not I would accept it. I began as an executive staff meteorologist
12 with the Rocket Launch Branch of NASA until being transferred to my current position as
13 Assistant Executive Staff meteorologist to the Deputy Chief Assistant of Operations of the
14 Oceanic Processes Branch. Simultaneous to my transfer, I began an independent weather
15 consulting group based in southern Florida called InstaStorm, Inc. Last year we changed the
16 name of the firm to InstaStorm.Com, Inc. to reflect our growing presence within the expanse of
17 the World Wide Web. I am currently President and own 92% of the stock in InstaStorm. Our plan
18 is to go public within the next six months. I am also a member of the American Meteorological
19 Society.

20 At InstaStorm we have made significant advances in the science of nowcasting. Nowcasts
21 are short-term weather forecasts that use a combination of surface observation, radar systems,
22 satellite measurements, and the internet to arrive at rapidly changing, but accurate, assessments
23 of weather patterns, focusing upon the identification of weather hot-spots, those areas where
24 severe and violent weather is prone to occur.

25 Typically, I do not involve myself with such things as litigation. Basic meteorology is an
26 art form, not a science. It is not the stuff of precision or predictability. Even though science has
27 attempted to tame Mother Nature, or at least predict her weather, through the use of satellites,
28 computers, and the internet, it is always difficult, if not impossible, to be certain about weather
29 patterns or predicting storms or assessing data to arrive at a concrete evaluation of some
30 phenomena after it has occurred. Weather features that impact individual forecasts range from
31 localized breezes and slower clouds to great wave patterns that circle the globe transporting
32 energy.

33 Nonetheless, when the attorneys in this case approached me about testifying as an expert,
34 I couldn't refuse! Not only was the money too good to pass up, but conquering Mt. Everest
35 intrigues me. I certainly wouldn't want to ever do it myself, but the whole notion of being on top
36 of the world does have a certain cumulus appeal to a weather-nut like myself. In fact, just before
37 becoming involved in this case, I attended a lecture given by Dr. Deck Beathers, a surgeon in
38 Dallas, Texas and a survivor of the 1996 Everest Disaster. That was the year when twelve people
39 were killed within a matter of days, due in part to a sudden and unexpected storm that lashed the
40 peaks of Everest. Actually, the storm in 1996 was a fairly average Everest squall. Dr. Beathers

41 was left for dead and spent a whole night lying exposed on the mountain in wind-chills of over
42 100 degrees Fahrenheit, but he survived.

43 The weather on the peaks of Everest is volatile. After reviewing air-flow documentation,
44 satellite surface measurements, and various other radar data collected in both April and May of
45 2000, the time when P.J. Gilbertson was in Nepal, I have concluded that this was a period of
46 atmospheric anarchy. That is, entropical forces certainly had the upper hand not only during those
47 two months, but also during the spring monsoon season that followed. Typically, there is some
48 predictable order to weather patterns, but the data I reviewed indicates that April and May 2000
49 were abnormal climatological months for that season a hundred year event, of sorts.

50 During April, the jet stream blasts the slopes of Everest like a water cannon. The summit
51 pyramid sustains hurricane force winds on a daily basis. April of 2000 was no exception.
52 Usually, May is different. Due to the ebb and flow of monsoon season, the 10th of May and the
53 days prior and subsequent to that date are among the most favorable of the year. As the
54 monsoons begin their assault on the mainland from the Bay of Bengal, the jetstream is forced
55 into Tibet. However, on May 9, 2000 and May 10, 2000 the top of Mount Everest was a weather
56 hot spot. Had The Everest Experience guides checked an internet forecast as late as 10:00 pm
57 (Nepal local Time in the +5.75time zone), they would have been able to ascertain that a
58 significant weather disturbance would strike with some force within hours at the peak of Everest.
59 At least, that was the InstaStorm forecast for Everest that evening. In actuality, the storm did not
60 strike until much later in the day due to stagnant air flow around the Western Cwm. Nonetheless,
61 any meteorologist could have seen it coming. I certainly wouldn't have wanted to be on Everest
62 when that storm hit! The jet stream blast that usually would be limited to April hit Everest with
63 full fury. Admittedly, however, even review of data posted on the internet may not have revealed
64 the force of the jet stream to a lay person uneducated in meteorology. The weather that day was
65 totally atypical.

66 In fact, subsequent to my review of Everest climatology, I am of the conclusion that I
67 would never want to attempt such a climb. The weather is a constant enemy to climbers
68 attempting to summit. For instance, there is dramatic temperature fluctuation. During the day, a
69 tee shirt may be in order as the temperature reaches 60 degrees Fahrenheit in the afternoon sun,
70 then plummets until the wind-chill is as low as 125 degrees Fahrenheit.

71 Solar radiation is also a problem. The sun, which behaves as a black body with a surface
72 temperature of 5,750 K., emits its maximum radiation at the summit of Everest. Typically, much
73 of the sun's ultraviolet and infrared radiation is absorbed in the atmosphere. The most important
74 absorbers of radiation at short wavelengths are ozone and oxygen. Water vapor and carbon
75 dioxide are the principal absorbers of near infrared rays. At the heights that Everest climbers are
76 expected to perform, solar radiation is at its worst. It would be like climbing in a natural
77 microwave oven, even on a placid day. This can result in confusion, temporary or even
78 permanent blindness, hallucinations, pronounced dehydration, and heightened human sensitivity
79 to the high altitude headaches that plague trekkers.

80 All in all, the weather on Everest is a recipe for disaster, especially when combined with
81 factors such as high altitude acclimatization and the frailties of the human body. I have never
82 been up that high and I never intend to be. Give me a beach on the Cape any day!

Dated this 22nd day of September, 2000.

Andi Denman

D.T. Hendrich, M.D., the Gilbertson's family doctor

1 My name is Dr. D.T. Hendrich. In all my 40 years of family practice here in
2 Murfreesboro, I've never given a statement like this. I have never been sued. I have never been a
3 witness in a lawsuit. Now, don't get me wrong, I have nothing against lawyers. I have several
4 friends who are lawyers and, of course, I will update my will every so often when I go to see my
5 own lawyer, Paul Goodman. People get funny ideas about doctors and lawyers nowadays, it
6 seems. They avoid us like the plague.

7 P.J. Gilbertson was like that, you know. Funny, actually. If those precious little ones,
8 Dicky and Anita, were to have so much as a sniffle or a scrape, P.J. or Merritt would have them
9 in my office faster than you can shake a stick. The kids never minded, either, because they knew
10 when it was all over, they'd get a lollipop or some other little trinket, just like I've been giving to
11 my littlest patients since I first started practicing with my father, Dr. George Henderson, in 1960.

12 Anyway, I got off track. P.J. never liked to come to see me. It wasn't that we didn't get
13 along. I get along with all of my patients. It was just that P.J. didn't like doctors much. Now it
14 seems to me that I first saw little Dicky when he was just a baby in 1990. And of course, Merritt
15 would come in for regular appointments. But, P.J. was another story. I didn't see P.J. as a patient
16 until 1993. P.J. had just made partner and was working darn near around the clock and, I might
17 add, feeling pretty run down. P.J. got a good case of the walking pneumonia that year and I had
18 to actually go to the Gilbertson's home. Of course, I don't mind house calls and P.J. just needed
19 some rest and lots of fluids. I remember that when I got there, P.J. was in a little room in their
20 house there. That was before they had moved to that big, new house they have now. Anyway, as I
21 was saying, P.J. was in this little room that served as an office. Papers and books and briefcases
22 were stacked all over the place. And in the middle of it all was P.J, coughing away like you
23 wouldn't believe. I told P.J. to get to bed. S/He wouldn't do it, just flat out refused. P.J. said
24 something like, "Doc, there's work to be done and it doesn't matter how I feel when there's work
25 to be done." I don't remember the exact words, but it was something like that. Anyway, I told
26 P.J. that the virus could develop into full blown pneumonia and death or permanent lung damage
27 could result if P.J. wasn't careful. Then, how would P.J. be able to climb any mountains? Well,
28 P.J. seemed to think about that for a moment. There wasn't much else I could do. P.J. made a big
29 show about getting into bed and telling me that there would be no more work for that day. Merritt
30 told me later that I was no sooner walking back to my office than P.J. was out of bed back in that
31 little room surrounded by all the legal papers.

32 Anyway, I could count on my hand the number of times that P.J. came to see me.
33 Whenever I'd see P.J. and recommend a check-up, P.J. would give me the brush-off and say
34 something like, "Doc, I know how I feel and I know its good enough to get me up in the morning
35 and conquer the day." That was just always how P.J. was. Even in 1995, after P.J. went to Mount
36 McKinley, P.J. refused to come see me. Merritt said P.J. took a whole week off of work because
37 P.J. felt so miserable.

38 So, anyway, it was quite the surprise when P.J. showed up in my office in February last
39 year and asked for a physical. You could have knocked me over with a feather. I knew that
40 Merritt had made P.J. come before his big trip to Nepal. Of course, P.J. was fit as a fiddle. But I
41 had to do some extra research on inoculations, which ones P.J. was supposed to have and so
42 forth, since I had never treated a patient that was going to Nepal, or try to climb Mount Everest,

43 for that matter. I called up the Tennessee Medical Library in State Center to get my knowledge
44 up to snuff. P.J. also gave me a telephone number for The Everest Experience, the company that
45 was taking P.J. on the trip. I called and asked if they could direct me to a physician I could
46 consult with. The young person I spoke with was not very helpful. I was advised to contact Dr.
47 Allison B. Henderson in Anchorage, Alaska. But the telephone number the person at The Everest
48 Experience gave me was disconnected. I tried to call those people at The Everest Experience
49 back, but they wouldn't return my phone calls. I just kept getting the message machine. So, I
50 managed to figure out what to do by the old-fashioned method. I hit the books, everything from
51 travel, medicine, and sports journals to medical books on the topic. P.J. helped out by bringing in
52 some information from the internet. When I knew what to do, I arranged to have P.J. come back
53 in to get inoculated and that's what happened.

54 Now that was kind of strange. I remember when P.J. went with a friend, Bake Baker, to
55 climb Mount McKinley that they had gotten a physical and all the medical business from the
56 company that took them to the top of the mountain. I am sure that I didn't know as much about
57 climbing and such as a doctor like that. But I wasn't about to let one of the nicest folks I knew to
58 go without the proper knowledge and health needed for the trip to Nepal. I must have spent a
59 whole weekend boning up on pre-altitude medical protocols and reading about health concerns in
60 the Himalayas. I thought P.J. was in just fine shape when he left my office.

61 Merritt brought Anita in to see me March 10. Just a virus. I gave her a lollipop and away
62 they went. And then I got the shock of my life. On March 17, Saint Patrick's Day, P.J. came into
63 my office, looking alright initially. Some glands were a little swollen and P.J.'s tonsils were
64 inflamed. It looked to me like the beginnings of a sinus infection or something of that nature. I
65 told P.J. to get some rest and gave P.J. amoxicillan, a fifteen day prescription. I told P.J. to stay
66 home or risk being sick for the big Everest trip. P.J. said that staying home wasn't an option, that
67 the other partners at his firm were upset as it was. So I said, "Maybe you should just hold off on
68 the trip." P.J. just looked at me like a mule at a new gate. P.J. mumbled something like, "Sixty
69 grand and the chance of a lifetime. No way, Doc." Or at least, I think that's what P.J. said. P.J.
70 also asked me not to tell anyone about this visit to my office, especially Merritt.

71 And that was that. I never saw P.J. again. Poor Merritt, and little Dicky and Anita. I feel
72 just awful for them. From what I hear from Merritt, P.J. got a bad case of Potain's Disease or
73 Acosta's Disease. Those Everest people must have pushed P.J. too hard. That's all I know.

Dated this 14th day of January, 2001.

D.T. Hendrich, M.D.

Gene/Jean Schneider, former employee of The Everest Experience

1 My name is Gene/Jean Schneider. I am 28 years old and am unemployed. Before that, I
2 was working for Roger Holman at the Everest Experience as Director of Tennessee Operations
3 and Logistics.

4 I was born and raised in Tennessee, but I never thought I'd live here. How that came
5 about is because of computers. I worked with computers since I was in high school. In fact, I was
6 expelled from high school because I kept skipping classes to spend time in the computer lab,
7 programming and stuff. My parents went ballistic when I told them I got expelled and they
8 kicked me out of the house! I agreed with my parents to give up the computers, they let me back
9 into the house, and, before you know it, I got my high school diploma from Central Alternative
10 High in State Center.

11 It sure felt great to have that diploma in my hands, but the computer bug was still there.
12 My parents wanted me to go to some liberal arts joint in Iowa, but I said, "No way!" So they gave
13 me the boot again and I packed my bags for the big city and headed to Chicago-the Windy City.
14 Three years later, I had gotten an associate's degree from DeVry Institute of Technology. The
15 cost of living in Chicagoland was outrageous! So, I packed it up and headed back to Tennessee.

16 It wasn't hard to find a job in Tennessee, but the money was lousy. I worked with a
17 telemarketing firm developing interactive voice recognition hardware tech for a year, but that
18 wasn't going anywhere. I was seriously thinking about heading back to Chicago. Then, one night
19 in 1999, I met Roge Holman over at Alden Sweetland's Dance Pavilion. We started talking and it
20 turns out that Holman had just lost the computer guy that coordinated computer and tech based
21 support for Roge's company, The Everest Experience. The next thing you know, I'm the Director
22 of Tennessee Operations and Logistics for The Everest Experience, got my own office, business
23 cards, and the whole shebang!

24 It must have been my knowledge of information systems, programming, and tech stuff
25 that got Holman interested in me for this job. I was really running the show at The Everest
26 Experience. Don't get me wrong, I don't know much of anything about Mount Everest and the
27 whole climbing thing. I've seen videos of Roge and other climbers standing on some aluminum
28 ladder 500 feet above ice as hard as concrete with nothing to hold on to. I wouldn't need to go
29 any closer to Everest than I am right now after seeing those. They were scary!

30 Anyway, I got a few months of training before Roge left Tennessee to go on the 2000
31 expedition to Everest. Actually, there wasn't a whole lot of time for formal training, it was more
32 like "on-the-job" type experience. In those first winter months of 2000, Roge was always off
33 gallivanting here or there on some climb. I wasn't just the Director of Operations, I was the entire
34 operation-secretary, administrative assistant, travel coordinator and techie-rolled into one. That
35 Roge was something to work for! Sometimes, I didn't know where Roge's brain was. Usually,
36 Roge didn't know where the car keys were, where the cell phone was, camping equipment, boots,
37 contracts, underwear. You name it, Roge could lose it. We kept a drawer full of cell phones
38 handy because it seemed like Roge was either losing them or forgetting to charge them. A couple
39 of times I had to pick Roge up at different places around town, too, because Roge would run out
40 of gas-and all because Roge didn't pay attention to little things like that. "That's why I have a
41 staff to look out for me," Roge would say. I mean, in a way, I was kind of like Roge's babysitter.

42 Not that I minded, because the pay was worth it. For the first time I was making decent money
43 and things were going alright.

44 Things changed a bit as we got closer to time for Roge and the group to go to Nepal. I got
45 more responsibilities handed at me. I asked Roge for an assistant to help out while Roge was on
46 the climb, but Roge never got around to that. Anyway, on March 1, 2000, Roge left me by my
47 lonesome in the office. Once in a while when Roge was gone, I'd get a phone call or internet
48 inquiry asking for a brochure or something about the company and our trip. But, mainly, I was in
49 almost constant contact with Roge during the month of March. There was a huge snafu with
50 Roge's gear that was supposed to have arrived for the trip. We had about 3,600 pounds of stuff
51 that had to be shipped over to Nepal. I'm not talking little boxes, either. All sorts of goofy stuff
52 we packed up and sent over there: aluminum extension ladders, food, industrial size screws, tools
53 of all kinds, computer hardware, iridium cells to power computers and whatnot, radios, extra
54 batteries. I think I even packed up a whole box of yak pack harnesses. We packed it all up into a
55 container, the kind that goes onto trucks, trains, and ships. A truck picked it up here in Tennessee
56 and was supposed to take it to San Francisco where it would be put on a ship for Chittabong in
57 Bangladesh. From there, I don't remember exactly how Roge was going to get ahold of it, but it
58 didn't matter, anyway, because it never got there.

59 Roge hired the cheapest trucker to haul it from Tennessee. "No use using a Cadillac when
60 any old thing'll get it there," I remember Roge saying. Anyway, I don't know where Roge found
61 this guy, but he shows up in some beat-up Mercedes cargo truck with a trailer that looked like it
62 was going to fall apart when the forklift hoisted the container on to it. The gear should have
63 arrived in Kathmandu where Roge was waiting by the later part of March so Roge could start
64 getting it all into place and having the Sherpas haul it up to Base Camp. But when Roge got there
65 the second full week in March, there was no gear. So Roge calls me right away and wants to
66 know what the hell is going on. That's when things started to go downhill with Roge and me.

67 That was March 15. I remember because from that day on, I was on the phone for like a
68 week straight trying to coordinate all the shipping arrangements and find our stuff. The guy that
69 Roge had hired to haul our stuff cross-country had made a pit-stop in Vegas on the way to San
70 Fran and evidently decided to try his luck with the cash money that Roge had paid him. Well,
71 from what we found out later, that joker spent three days in Vegas and lost all his money. He was
72 already three days behind and then that old clunker broke down and it took another week to get
73 the truck back up and fixed. Anyway, I'm making this story too long. He got the container to the
74 right dock, but the ship had already left. It didn't matter to him, he just left it there. By the time
75 we figured this all out, our most important gear was sitting on San Fran Bay when it was
76 supposed to be half way to Base Camp.

77 Roge blamed me for it but I was just following instructions. Roge wouldn't hear of
78 canceling the expedition. I don't know how Roge found all the stuff they needed to find over
79 there in Nepal, I mean, some of those things were high tech items-not the type of stuff you barter
80 for at the market in Kathmandu. I'm pretty sure Roge must have been short on the solar energy
81 end of things, iridium cells, batteries, and stuff like that. Half the time, the computers were down.
82 I got phone calls from people all the time-wives, kids, co-workers of the clients upon Everest,
83 saying the communications stuff wasn't working. They weren't getting phone calls or e-mails or
84 able to keep in touch the way we said they'd be able to. There wasn't much I could do myself.

85 After about the last week in April, Roge wasn't in touch much. When Roge did call, Roge was
86 really short with me. Holman whined about how I'd let Roge and the climbers down, how this
87 was the worst expedition Roge had ever led because they didn't have their stuff. I mean, I still
88 don't know much about Everest, but if things were so bad off, I just wouldn't have gone.

89 I didn't know how bad it was going to get until the summit push, though. I think Roge
90 was short on power for the radio or something. I was supposed to be patched through to Roge to
91 keep the group appraised of the weather forecasts on Everest and stuff like that, but it was hard
92 when our communication gear never seemed to be working. Once I even had to use equipment
93 over at The Everest Challenge office so that I could get a message to Roge. How humiliating!
94 When Roge heard I'd done that, I guess Roge blew a gasket!

95 Anyway, after I heard what happened up there on the summit push, it didn't take me
96 much to know this business wasn't for me. Roge had promised me that this whole deal was going
97 to be a job that utilized my technical skill and would allow me to be creative. If I'd wanted to
98 track packages, I'd go work for the post office. And, the tech equipment was the worst
99 second-hand stuff I'd ever seen. No wonder Roge couldn't keep in touch with the outside world
100 at 27,000 feet. I was going to quit, but I was fired me the moment Roge set eyes on me. I got
101 offered a similar position at The Everest Challenge, but I've had enough of Mount Everest to suit
102 me. I'm unemployed right now. The job market seems to really have dried up now with this
103 recession thing, even in the tech field. I'll probably have to go back to Chicago.

Dated this 23rd day of January, 2001.

Gene/Jean Schneider

EXHIBIT LIST

EVEREST EXPERIENCE BROCHURE/ADVERTISING MATERIALS.

EVEREST EXPERIENCE ITINERARY AND CALENDAR.

CONTRACT FOR SERVICES WITH EXCULPATORY CLAUSE EXECUTED BY ABNER MORTON, EVEREST EXPERIENCE CHIEF FINANACIAL OFFICER, AND P.J. GILBERTSON.

PHOTOGRAPH OF MOUNT EVEREST DEPICTING BASE CAMP, CAMP I, CAMP II, CAMP III, CAMP IV, SUMMIT, AND APPROPRIATE ALTITUDES.

DEPOSITION TESTIMONY OF ANDI DENMAN.

RELEASE AGREEMENT BETWEEN PLAINTIFF MERRITT THOMAS GILBERTSON AND DEFENDANT BARTLETT “BAKE” BAKER.

E-MAIL TRANSMISSIONS FROM P.J. GILBERTSON WHILE ON MOUNT EVEREST.

MAP OF NEPAL.*

MAP OF 2000 SUMMIT PATH ON MOUNT EVEREST.**

PEER REVIEW AND PROTOCOL ADHERENCE ANALYSIS OF DR. HILLARY EDMUND SUBSEQUENT TO 1994 PATIENT DEATH.

* This map can be found in Climbing High by Lene Gammelgaard. It is the first picture after page 128.

** This map can be found in Lost on Everest by Peter Firstbrook on pages 6-7.